

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOHN J. AQUINO,)	
CHAPTER 7 TRUSTEE)	Case #1:21-cv-01355-JSR
By Its Assignee,)	
Convergent Distributors of Texas, LLC)	
)	
Plaintiff,)	
)	
v.)	
)	
ALEXANDER CAPITAL, LP)	
&)	
Its Managing Partners:)	
JOSEPH AMATO,)	
ROCCO GUIDICIPIETRO, and)	
NESA MANAGEMENT, LLC)	
)	
Defendants)	

**DECLARATION OF WILLIAM C. RAND, ESQ.
IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

EXHIBIT 14

9-30-21 Dep. Testimony of J. Amato

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<p>Page 1</p> <p>1</p> <p>2 UNITED STATES DISTRICT COURT</p> <p>3 SOUTHERN DISTRICT OF NEW YORK</p> <p>4 -----x</p> <p>5 JOHN J. AQUINO, CHAPTER 7 TRUSTEE</p> <p>6 By Its Assignee,</p> <p>7 Convergent Distributors of Texas, LLC,</p> <p>8 Plaintiff,</p> <p>9 -against- Case #1:21-cv-01355-JSR</p> <p>10 ALEXANDER CAPITAL, LP & Its Managing</p> <p>11 Partners:</p> <p>12 JOSEPH AMATO, ROCCO GUIDICIPIETRO, and</p> <p>13 NESA MANAGEMENT, LLC,</p> <p>14 Defendants.</p> <p>15 -----x</p> <p>16 VIDEOTELECONFERENCED DEPOSITION OF:</p> <p>17 JOSEPH AMATO</p> <p>18 Hamburg, New Jersey</p> <p>19 Thursday, September 30, 2021</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Reported by:</p> <p>24 Aydil M. Torres, CSR</p> <p>JOB NO. J7462962</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2</p> <p>3 A P P E A R A N C E S:</p> <p>4</p> <p>5</p> <p>6 SCHLICHTMANN LAW</p> <p>7 Attorney for Plaintiff</p> <p>8 359 Hale Street</p> <p>9 Beverly, Massachusetts 01915</p> <p>10 BY: JAN SCHLICHTMANN, ESQ.</p> <p>11</p> <p>12</p> <p>13 HOLCOMB & WARD, LLP</p> <p>14 Attorneys for Defendants</p> <p>15 3455 Peachtree Road, NE, Suite 500</p> <p>16 Atlanta, Georgia 30326</p> <p>17 BY: BRYAN M. WARD, ESQ.</p> <p>18</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Matthew Leiva, Videographer</p> <p>22 Holly Cole, Esq.</p> <p>23 Aaron Wright, Esq.</p> <p>24</p> <p>25</p>
<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 September 30, 2021</p> <p>5 10:08 a.m.</p> <p>6</p> <p>7</p> <p>8 VTC deposition of JOSEPH</p> <p>9 AMATO, held at 21 Country Lane,</p> <p>10 Hamburg, New Jersey, pursuant to</p> <p>11 Notice, before Aydil M. Torres, a</p> <p>12 Notary Public of the State of</p> <p>13 New York.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1</p> <p>2</p> <p>3 S T I P U L A T I O N S</p> <p>4</p> <p>5 IT IS HEREBY STIPULATED AND AGREED</p> <p>6 by and between the attorneys for the</p> <p>7 respective parties herein, that filing,</p> <p>8 sealing and certification be and the</p> <p>9 same are hereby waived.</p> <p>10</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that all objections, except as to the</p> <p>13 form of the question shall be reserved</p> <p>14 to the time of the trial.</p> <p>15</p> <p>16 IT IS FURTHER STIPULATED AND AGREED</p> <p>17 that the within deposition may be signed</p> <p>18 and sworn to before any officer authorized</p> <p>19 to administer an oath, with the same force</p> <p>20 and effect as if signed and sworn to before</p> <p>21 the Court.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 THE VIDEOGRAPHER: Good</p> <p>3 morning, we are on video record.</p> <p>4 Time is 10:08 a.m. in the video</p> <p>5 deposition of Joseph Amato, in the</p> <p>6 matter of John J. Aquino, CH 7,</p> <p>7 versus Alexander Capital.</p> <p>8 Will counsel please</p> <p>9 introduce yourselves and upon which</p> <p>10 the witness will be sworn in?</p> <p>11 MR. SCHLICHTMANN: Yes, Jan</p> <p>12 Schlichtmann, for the Plaintiff.</p> <p>13 MR. WARD: Bryan Ward of</p> <p>14 Holcomb Ward, for the Defendants,</p> <p>15 and with me is Holly Cole and Aaron</p> <p>16 Wright, also counsel for</p> <p>17 Defendants.</p> <p>18 J O S E P H A M A T O,</p> <p>19 called as a witness, having been</p> <p>20 duly sworn by a Notary Public, was</p> <p>21 examined and testified as follows:</p> <p>22 THE REPORTER: Will you</p> <p>23 please state your full name for the</p> <p>24 record.</p> <p>25 THE WITNESS: Joseph Amato.</p>	<p style="text-align: right;">Page 7</p> <p>1 Joseph Amato</p> <p>2 Q. And Nesa -- and what's Nesa -- what</p> <p>3 is Nesa Management, LLC's relationship with</p> <p>4 Alexander Capital, LP?</p> <p>5 A. Nesa Management owns a piece of</p> <p>6 Alexander Capital, LP.</p> <p>7 Q. Can you tell us the percentage?</p> <p>8 A. I believe it's 55 percent. I am</p> <p>9 not certain.</p> <p>10 Q. And could you tell us who owns the</p> <p>11 other 45 percent?</p> <p>12 A. Of the -- of Alexander Capital</p> <p>13 or --</p> <p>14 Q. Correct.</p> <p>15 A. Oh, it is -- you know what, I don't</p> <p>16 know the entities exactly off the top of my</p> <p>17 head. I would have to look at CRD.</p> <p>18 Q. You would you have to look at --</p> <p>19 I'm sorry, you'd have to look at what?</p> <p>20 A. CRD.</p> <p>21 Q. Okay. What's "CRD"?</p> <p>22 A. The center site that shows the</p> <p>23 ownership.</p> <p>24 Q. Okay, so if I showed you the --</p> <p>25 like the broker-check report for Alexander</p>
<p style="text-align: right;">Page 6</p> <p>1</p> <p>2 THE REPORTER: Please state</p> <p>3 your address for the record.</p> <p>4 THE WITNESS: 21 Country</p> <p>5 Lane, Hamburg, New Jersey 07419.</p> <p>6 THE REPORTER: Thank you.</p> <p>7 I will have the first two on</p> <p>8 the record. Counsel can proceed.</p> <p>9 MR. SCHLICHTMANN: Thank you</p> <p>10 very much.</p> <p>11 EXAMINATION BY</p> <p>12 MR. SCHLICHTMANN:</p> <p>13 Q. And thank you, Mr. Amato, for</p> <p>14 agreeing to sit through this deposition. I</p> <p>15 appreciate it. We may experience some</p> <p>16 technical difficulties. Technology is still</p> <p>17 a little balky, a little bit, but hopefully</p> <p>18 with your patience and understanding, we will</p> <p>19 get through this short order, and I will try</p> <p>20 and be as efficient as I can with the</p> <p>21 technology.</p> <p>22 Mr. Amato, you're an owner, through</p> <p>23 Nesa Management, LLC, of Alexander Capital,</p> <p>24 LP; is that correct?</p> <p>25 A. I own Nesa Management, correct.</p>	<p style="text-align: right;">Page 8</p> <p>1 Joseph Amato</p> <p>2 Capital, LP, would that help you?</p> <p>3 A. Yes, it should.</p> <p>4 Q. Okay. All right. So give me a</p> <p>5 moment and if all goes well, I will be able</p> <p>6 to call it up. Bear with me.</p> <p>7 Okay. All right. If all went</p> <p>8 well, hopefully, on your screen is the</p> <p>9 broker-check report for Alexander Capital,</p> <p>10 LP.</p> <p>11 Do you see that, Mr. Amato?</p> <p>12 A. I do.</p> <p>13 Q. Okay. Does that look familiar to</p> <p>14 you as something you have seen before, the</p> <p>15 broker-check report that FINRA has on file</p> <p>16 for Alexander Capital, LP.</p> <p>17 A. Somewhat familiar. They change, so</p> <p>18 I don't know the particular one this is from.</p> <p>19 Q. All right. But this was recently</p> <p>20 taken off the public site of FINRA. Is this</p> <p>21 in keeping with what you are familiar with as</p> <p>22 a broker-check report regarding Alexander</p> <p>23 Capital, LP, in general?</p> <p>24 A. Yes, I haven't seen this recently,</p> <p>25 but, yes.</p>

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<p style="text-align: right;">Page 9</p> <p>1 Joseph Amato</p> <p>2 Q. All right. I will flip through it,</p> <p>3 and so on the firm profile you have the firm</p> <p>4 name and location. That's all familiar to</p> <p>5 you. Alexander Capital at 17 State Street,</p> <p>6 5th Floor, New York, correct?</p> <p>7 A. Correct.</p> <p>8 Q. All right. And now it says, "firm</p> <p>9 profile." Is that what you were referring to</p> <p>10 that would help you figure out who are the</p> <p>11 owners of Alexander Capital, LP?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Now, I'm particularly</p> <p>14 interested in the period 2014 to 2015. So I</p> <p>15 may be asking you questions from where we are</p> <p>16 now to -- to that period of time, all right?</p> <p>17 We may be switching back, all right?</p> <p>18 A. All right.</p> <p>19 Q. So this -- this is a profile of the</p> <p>20 firm that FINRA is -- has in their</p> <p>21 broker-check report regarding the firm, you</p> <p>22 know, as of 2021, all right? So the first</p> <p>23 one is Nesa Management. Do you see it's</p> <p>24 listed as a "partner." Its position is</p> <p>25 "partner." Do you see that?</p>	<p style="text-align: right;">Page 11</p> <p>1 Joseph Amato</p> <p>2 percentages. Is that your understanding?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. All right. Now this says, 50, but</p> <p>5 less than 75 percent. I believe you just</p> <p>6 testified that it was -- has 55 percent</p> <p>7 ownership of Alexander Capital, LP; is that</p> <p>8 your understanding?</p> <p>9 A. I believe so.</p> <p>10 Q. Okay. And it says, "Does this</p> <p>11 owner direct the management or policies of</p> <p>12 the firm?" And it says, "yes." Do you see</p> <p>13 that?</p> <p>14 A. I see that.</p> <p>15 Q. And is that consistent with your</p> <p>16 understanding?</p> <p>17 A. No, I don't believe so.</p> <p>18 Q. Okay. Who directs the management</p> <p>19 or policies of the firm, Alexander Capital,</p> <p>20 LP?</p> <p>21 A. That would be the Compliance Team</p> <p>22 and Department, and chief compliance officer.</p> <p>23 Q. Okay. Does Mr. -- do you have any</p> <p>24 management responsibilities at Alexander</p> <p>25 Capital, LP?</p>
<p style="text-align: right;">Page 10</p> <p>1 Joseph Amato</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And is that consistent with</p> <p>4 your understanding of Nesa Management's</p> <p>5 relationship to Alexander Capital, LP?</p> <p>6 A. I believe it's an owner.</p> <p>7 Q. Okay. Well, they use the word</p> <p>8 "partner."</p> <p>9 Is that also an owner and partner?</p> <p>10 A. I would assume so, but it says it</p> <p>11 as position "partner," then, yes.</p> <p>12 Q. Okay. And it says, "position start</p> <p>13 date, 12/20/2013." Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Okay. And is that consistent with</p> <p>16 your understanding, that Nesa Management</p> <p>17 became an owner/partner on -- in December 20</p> <p>18 -- on December -- beginning December 20,</p> <p>19 2013?</p> <p>20 A. I am uncertain as to the date, but</p> <p>21 it seems about right.</p> <p>22 Q. Okay. It says, "percentage</p> <p>23 ownership, 50 percent, but less than 75</p> <p>24 percent." I take it that with FINRA, they</p> <p>25 ask for ranges. They don't ask for specific</p>	<p style="text-align: right;">Page 12</p> <p>1 Joseph Amato</p> <p>2 A. Currently, no.</p> <p>3 Q. Did you in the past?</p> <p>4 A. No. No, I -- I apologize. I have</p> <p>5 at one point, yes.</p> <p>6 Q. Okay. And do you know when your</p> <p>7 management responsibilities began at</p> <p>8 Alexander Capital, LP?</p> <p>9 A. I don't recall the dates. It was</p> <p>10 many years back.</p> <p>11 Q. All right. Was this -- did you</p> <p>12 take on -- do you know what position you took</p> <p>13 on with Alexander Capital in the beginning?</p> <p>14 A. In the beginning, I was a</p> <p>15 representative.</p> <p>16 Q. Okay. And when did you begin --</p> <p>17 what's your best estimate of when you became</p> <p>18 a representative?</p> <p>19 A. When I joined the firm I was a</p> <p>20 registered rep; the day I joined the firm.</p> <p>21 Q. Okay. And in reference to Nesa</p> <p>22 Management's start date, as on this report of</p> <p>23 December 2013, did you become a registered</p> <p>24 representative at Alexander Capital prior to</p> <p>25 that time?</p>

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<p style="text-align: right;">Page 13</p> <p>1 Joseph Amato</p> <p>2 A. I believe so.</p> <p>3 Q. Do you know how long you were a</p> <p>4 registered representative prior to that date?</p> <p>5 A. It may have been 2012 sometime.</p> <p>6 I'm uncertain as to the start date.</p> <p>7 Q. Okay. And after December of 2013,</p> <p>8 did you take a different position? Was there</p> <p>9 a change from representative to another</p> <p>10 position with Alexander Capital, LP?</p> <p>11 A. No.</p> <p>12 Q. Did you ever become an executive at</p> <p>13 Alexander Capital, LP, after December 2013?</p> <p>14 A. I was an account executive from the</p> <p>15 day I started.</p> <p>16 Q. Right, but did you ever become an</p> <p>17 executive, like a CEO, a president, or any</p> <p>18 other level of, you know, as an officer of</p> <p>19 any kind?</p> <p>20 A. I held other titles at the firm</p> <p>21 throughout, so I just don't know what dates</p> <p>22 they started and ended because there were</p> <p>23 many starting and endings.</p> <p>24 Q. Okay. Can you tell us as best you</p> <p>25 can, from your memory, roughly --</p>	<p style="text-align: right;">Page 15</p> <p>1 Joseph Amato</p> <p>2 you remember that?</p> <p>3 A. I believe so.</p> <p>4 Q. Okay. And then as an -- as to Nesa</p> <p>5 Management, is it true that you and</p> <p>6 Mr. Guidici Pietro are the two co-owners of</p> <p>7 Nesa?</p> <p>8 A. That is correct.</p> <p>9 Q. And there are no other owners,</p> <p>10 other than you and Mr. Guidici Pietro?</p> <p>11 A. That is correct.</p> <p>12 Q. Okay. And that has always been the</p> <p>13 case --</p> <p>14 A. Yes.</p> <p>15 Q. -- regarding Nesa? Is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Now -- so going to the next --</p> <p>18 well, let me just go back to Nesa. Did Nesa</p> <p>19 Management always have 55 percent during the</p> <p>20 period of time it became -- its position</p> <p>21 start date is listed here as December 2013.</p> <p>22 December 20, 2013.</p> <p>23 Did Nesa Management always have 55</p> <p>24 percent of Alexander Capital, LP?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 14</p> <p>1 Joseph Amato</p> <p>2 A. I cannot.</p> <p>3 Q. -- the order? I'm sorry?</p> <p>4 A. I couldn't.</p> <p>5 Q. Okay. Can you tell us at least, if</p> <p>6 you don't know the -- if you can't quite</p> <p>7 remember the order, can you remember the</p> <p>8 position?</p> <p>9 A. I held title of CROP, DROP and</p> <p>10 STROP at some point, and I held the title of</p> <p>11 CEO.</p> <p>12 Q. Okay. But you can't tell us the</p> <p>13 period of time you were CEO?</p> <p>14 A. No, because there was a time I was</p> <p>15 on, then I was no longer with the company,</p> <p>16 and then I was back with the company, but I</p> <p>17 wasn't the CEO. So it's -- I would have to</p> <p>18 -- you would have to go through CRD for the</p> <p>19 firm filings. I would assume. I don't even</p> <p>20 know how to go about getting that. I am not</p> <p>21 familiar with the CRD system as much. I was</p> <p>22 just familiar with some aspect of it.</p> <p>23 Q. Okay. Before you said about your</p> <p>24 -- that Nesa owns, presently, 55 percent of</p> <p>25 Alexander Capital, LP; is that correct? Do</p>	<p style="text-align: right;">Page 16</p> <p>1 Joseph Amato</p> <p>2 Q. Okay, what -- do you remember what</p> <p>3 it began at, what figure?</p> <p>4 A. Zero.</p> <p>5 Q. Okay. And then when did -- and at</p> <p>6 some point it got a percentage of Alexander</p> <p>7 Capital, LP?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know what the initial</p> <p>10 ownership interest was?</p> <p>11 A. I believe it was 24.9 percent.</p> <p>12 Q. And is that true -- is it true that</p> <p>13 it received that percentage as of December of</p> <p>14 2013?</p> <p>15 A. It may be that time frame. I</p> <p>16 believe that's what it represents, but I am</p> <p>17 not exact on the time.</p> <p>18 Q. And then it changed from 24.9</p> <p>19 percent at some point to 55 percent; is that</p> <p>20 correct?</p> <p>21 A. I don't believe so, no.</p> <p>22 Q. Well, it's now 55 percent, and</p> <p>23 before it was 24.9, so I guess at some point</p> <p>24 between those two, right? That's what I</p> <p>25 meant to ask.</p>

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<p style="text-align: right;">Page 17</p> <p>1 Joseph Amato</p> <p>2 A. Yes.</p> <p>3 Q. That may have been a confusing</p> <p>4 question. I'm sorry.</p> <p>5 A. Yes.</p> <p>6 Q. Let me just ask it again so the</p> <p>7 record is clear. When Nesa Management became</p> <p>8 a twenty -- in December of 2013, it became a</p> <p>9 24.9 percent owner of Alexander Capital.</p> <p>10 There came a point where it acquired 55</p> <p>11 percent. It went from 24.9 percent to 55</p> <p>12 percent; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. All right. And is it -- is it</p> <p>15 consistent with your memory that the change</p> <p>16 from 24.9 percent occurred in 2017, where</p> <p>17 there was a change in percentage from 24.9</p> <p>18 percent to a higher percentage?</p> <p>19 A. I -- I don't recall the exact dates</p> <p>20 on when it took place.</p> <p>21 Q. Does that sound -- does that seem</p> <p>22 consistent with your memory?</p> <p>23 A. Again, I couldn't give exact dates</p> <p>24 or years, but -- I don't know.</p> <p>25 Q. Okay. Is it your memory, though,</p>	<p style="text-align: right;">Page 19</p> <p>1 Joseph Amato</p> <p>2 55 percent?</p> <p>3 A. I don't believe so. Greater.</p> <p>4 Q. Okay. What did it go to?</p> <p>5 A. I -- I don't recall the whole</p> <p>6 trilogy of how we ended up with the 55, but I</p> <p>7 believe it was higher, and then ended up at</p> <p>8 55.</p> <p>9 Q. What's your memory of the highest</p> <p>10 percentage?</p> <p>11 A. Off the top of my head, I don't</p> <p>12 recall. It may have been 100.</p> <p>13 Q. All right. So -- and did you go to</p> <p>14 100 percent in 2017?</p> <p>15 A. Again, I don't recall the timing of</p> <p>16 it.</p> <p>17 Q. Is it your understanding that if</p> <p>18 there's any change in ownership at Alexander</p> <p>19 Capital, LP, because it's a member of FINRA,</p> <p>20 it has to seek FINRA's approval for any</p> <p>21 ownership change greater than 25 percent? Is</p> <p>22 that your understanding?</p> <p>23 A. Greater than -- any ownership</p> <p>24 change greater than 25 percent? That's what</p> <p>25 you are asking?</p>
<p style="text-align: right;">Page 18</p> <p>1 Joseph Amato</p> <p>2 that when it went from 24.9 percent, the next</p> <p>3 percentage change was 55 percent. There was</p> <p>4 not an interim step where it had a lower --</p> <p>5 somewhere between 24.9 and 55 percent. It</p> <p>6 went to 55 percent; is that correct?</p> <p>7 A. Rephrase the question.</p> <p>8 Q. Okay. I'm just trying to --</p> <p>9 A. Right.</p> <p>10 Q. -- you know, trying to shorten up</p> <p>11 the questioning but --</p> <p>12 A. Right.</p> <p>13 Q. Again, I don't -- if you don't</p> <p>14 understand, please feel free to ask me to</p> <p>15 restate or rephrase.</p> <p>16 What I am trying to get at is:</p> <p>17 Nesa Management started out at 24.9 percent</p> <p>18 in December 2013, and at some point it</p> <p>19 changed to 55 percent, and I am just asking,</p> <p>20 there was no interim percentage change</p> <p>21 between 24.9 percent and 55 percent; is that</p> <p>22 correct?</p> <p>23 A. No.</p> <p>24 Q. Okay. Did it -- did it go from</p> <p>25 24.9 percent to another percentage less than</p>	<p style="text-align: right;">Page 20</p> <p>1 Joseph Amato</p> <p>2 Q. Yes, that if there's an ownership</p> <p>3 change 25 percent or greater, that Alexander</p> <p>4 Capital has to seek approval from FINRA to</p> <p>5 approve that ownership change? Is that your</p> <p>6 understanding?</p> <p>7 A. I believe it is, yes.</p> <p>8 Q. All right. And at some point</p> <p>9 Alexander Capital asked to change from 24.9</p> <p>10 percent to a higher percentage; is that</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And then it went to -- may have</p> <p>14 gone as high as 100 percent; is that correct?</p> <p>15 A. I believe so, yes.</p> <p>16 Q. All right. And that would have</p> <p>17 been part of -- before that could occur,</p> <p>18 however, they would have had to have sought</p> <p>19 approval and obtain approval of FINRA for</p> <p>20 there to be such a change; is that correct?</p> <p>21 A. No.</p> <p>22 Q. Okay. Why is that incorrect?</p> <p>23 A. I believe there are stipulations</p> <p>24 that you could put in for it, if it's not</p> <p>25 done properly, answered in a certain time</p>

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<p style="text-align: right;">Page 21</p> <p>1 Joseph Amato</p> <p>2 frame, you could effect the transition.</p> <p>3 Q. Your understanding is that you can</p> <p>4 -- you can alert FINRA that there's going to</p> <p>5 be a change, and then during a certain period</p> <p>6 of time you can effect the change, unless</p> <p>7 they object; is that what you are saying?</p> <p>8 A. If they don't reply under a certain</p> <p>9 amount of time, you can become effective</p> <p>10 under what it was asked for if it wasn't</p> <p>11 done, is my understanding, yes.</p> <p>12 Q. Okay. All right. Now, I am</p> <p>13 specifically asking the period 2013 through</p> <p>14 2015. Are you -- do you have any -- what's</p> <p>15 your understanding as to who owned -- who had</p> <p>16 an ownership interest in Alexander Capital</p> <p>17 between 2013 and 2015?</p> <p>18 Do you have any understanding of</p> <p>19 that?</p> <p>20 A. I know who we purchased it from.</p> <p>21 Is that the question?</p> <p>22 Q. I will take that. What's that?</p> <p>23 What --</p> <p>24 A. I believe we purchased it from</p> <p>25 Exitus.</p>	<p style="text-align: right;">Page 23</p> <p>1 Joseph Amato</p> <p>2 purchased all of the interest that Exitus</p> <p>3 had?</p> <p>4 A. I don't recall. It would be a</p> <p>5 couple of years ago.</p> <p>6 Q. All right. And do you know Mr.</p> <p>7 Figliolo?</p> <p>8 A. Yes.</p> <p>9 Q. And did you -- was it your</p> <p>10 understanding that Mr. Figliolo owned Exitus?</p> <p>11 A. Yes.</p> <p>12 Q. And after the acquisition by Nesa</p> <p>13 of Exitus' interest, did Mr. Figliolo have</p> <p>14 any relationship with Alexander Capital, LP</p> <p>15 after that?</p> <p>16 A. I don't recall because he was an</p> <p>17 attorney, so I can't recall.</p> <p>18 Q. Well, what's your understanding as</p> <p>19 to whether Mr. Figliolo had any involvement</p> <p>20 with Alexander Capital, LP, after Nesa</p> <p>21 purchased Exitus' interest?</p> <p>22 A. I don't know if he ever represented</p> <p>23 us on anything. That's the only thing we</p> <p>24 would have done.</p> <p>25 Q. Okay. May have represented you as</p>
<p style="text-align: right;">Page 22</p> <p>1 Joseph Amato</p> <p>2 Q. All right. The 24.9 percent</p> <p>3 ownership?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Did you then later</p> <p>6 purchase more ownership from Exitus at some</p> <p>7 point?</p> <p>8 A. Yes.</p> <p>9 Q. And is that the ownership interest</p> <p>10 that may have been as high as 100 percent?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Now, after the purchase of</p> <p>13 Exitus -- after the purchase from Exitus of</p> <p>14 its interest to Nesa, did Exitus have any</p> <p>15 relationship with Alexander Capital, LP,</p> <p>16 after that purchase by Nesa of its interest</p> <p>17 of Exitus' interest in Alexander Capital, LP?</p> <p>18 A. Which purchase?</p> <p>19 Q. The one that went to 100 percent?</p> <p>20 A. No. After we purchased it, they --</p> <p>21 no.</p> <p>22 Q. Okay. And do you have any idea how</p> <p>23 long ago that acquired? Was that a month, a</p> <p>24 year, two years, three years? What's your</p> <p>25 best estimate as to how long ago Nesa</p>	<p style="text-align: right;">Page 24</p> <p>1 Joseph Amato</p> <p>2 an attorney. But other than that, I am</p> <p>3 asking about whether he was involved in</p> <p>4 management or whether he was a capital</p> <p>5 contributor, or had any other, you know,</p> <p>6 investment in Alexander Capital, LP, or</p> <p>7 management responsibilities at Alexander</p> <p>8 Capital, LP?</p> <p>9 A. No.</p> <p>10 Q. All right. All right. I am going</p> <p>11 to show you another document. All right. I</p> <p>12 am going to -- all right, hopefully you can</p> <p>13 see on the screen, "Delaware the First</p> <p>14 State."</p> <p>15 Do you see that document?</p> <p>16 A. I do.</p> <p>17 Q. Okay. By the way, the document</p> <p>18 before that I was referring to, the</p> <p>19 broker-check report, I have this habit of --</p> <p>20 bad habit of not saying what the exhibit was,</p> <p>21 but I will say what it was, if you give me</p> <p>22 just a moment.</p> <p>23 MR. WARD: Exhibit 29.</p> <p>24 MR. SCHLICHTMANN: Thank you</p> <p>25 very much, Attorney Ward.</p>

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<p style="text-align: right;">Page 25</p> <p>1 Joseph Amato</p> <p>2 So for the record, Aydil,</p> <p>3 that was Exhibit 29, previous</p> <p>4 exhibit, and feel free, anyone,</p> <p>5 Bryan, please, if I don't mention</p> <p>6 the exhibit number, please remind</p> <p>7 me. It's a bad habit. I'm sorry.</p> <p>8 Q. I am now showing you an exhibit</p> <p>9 that we have marked as 182, all right. It</p> <p>10 doesn't have a sticker on it, but this is an</p> <p>11 exhibit that was, yesterday, marked as 182,</p> <p>12 and this is a filing with the Delaware</p> <p>13 secretary of state's office that occurred on</p> <p>14 the 28th day of September, so just a couple</p> <p>15 of days ago.</p> <p>16 Are you aware of the fact that</p> <p>17 there was a filing with the secretary of</p> <p>18 state's office a couple of days ago involving</p> <p>19 Nesa Management?</p> <p>20 A. I was -- I am aware Nesa was going</p> <p>21 to file something. I didn't know if it was</p> <p>22 officially done yet.</p> <p>23 Q. Okay. Well, I will show you that</p> <p>24 this is a filing that was provided to us that</p> <p>25 was filed -- you see the date there,</p>	<p style="text-align: right;">Page 27</p> <p>1 Joseph Amato</p> <p>2 Q. Do you recognize 17 State Street,</p> <p>3 5th Floor, New York, New York, as the</p> <p>4 business address of Alexander Capital, LP; is</p> <p>5 that correct?</p> <p>6 A. Correct.</p> <p>7 Q. All right. And the -- it says,</p> <p>8 "the amendment is effective December 14,</p> <p>9 2017, for accounting purposes only." Do you</p> <p>10 see that?</p> <p>11 A. I do.</p> <p>12 Q. Does the date December 14, 2017,</p> <p>13 mean anything to you?</p> <p>14 A. Off the top of my head, no.</p> <p>15 Q. Could that date be the date that</p> <p>16 approval was given for Nesa Management to</p> <p>17 acquire additional interest from Exitus?</p> <p>18 A. It is very possible.</p> <p>19 Q. Okay. And this is signed by</p> <p>20 Mr. Guidiciopietro. Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. And he says under Nesa Management,</p> <p>23 LLC, he says, "general partner." Do you see</p> <p>24 that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 26</p> <p>1 Joseph Amato</p> <p>2 September 28, '21?</p> <p>3 A. I do.</p> <p>4 Q. Okay. And it's with the state of</p> <p>5 Delaware. It's an amendment to the</p> <p>6 certificate of limited partnership. Do you</p> <p>7 see that?</p> <p>8 A. I do.</p> <p>9 Q. And it's -- it says that "The</p> <p>10 undersigned desiring to amend the certificate</p> <p>11 of limited partnership pursuant to Delaware</p> <p>12 law, does hereby certify as follows." The</p> <p>13 name of the limited partnership is "Alexander</p> <p>14 Capital, LP."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Then it says, "Article 3, second</p> <p>18 article three of the certificate of limited</p> <p>19 partnership shall be amended as follows: The</p> <p>20 name and mailing address of each general</p> <p>21 partner is as follows:" And it has only one</p> <p>22 named, and that's "Nesa Management, LLC, 17</p> <p>23 State Street, 5th Floor, New York, New York."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 28</p> <p>1 Joseph Amato</p> <p>2 Q. Is it your understanding that Nesa</p> <p>3 Management LLC, considers itself to be the</p> <p>4 general partner of Alexander Capital, LP?</p> <p>5 A. I do not.</p> <p>6 Q. You "do not," what?</p> <p>7 A. I do not, no.</p> <p>8 Q. Okay. You see that Nesa</p> <p>9 Management, LLC, has "general partner" under</p> <p>10 its name.</p> <p>11 Do you see that?</p> <p>12 A. It says he is a general partner of</p> <p>13 Nesa Management.</p> <p>14 Q. Okay. And here it says, "The name</p> <p>15 and mailing address of each general partner</p> <p>16 of Alexander Capital, LP, is Nesa</p> <p>17 Management."</p> <p>18 Do you see that? "Of each general</p> <p>19 partner."</p> <p>20 A. Yes, Nesa Management is a general</p> <p>21 partner.</p> <p>22 Q. Of Alexander Capital, LP?</p> <p>23 A. It says, Nesa Management is a</p> <p>24 general partner. I see that, correct.</p> <p>25 Q. So let me just make sure we're</p>

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<p style="text-align: right;">Page 29</p> <p>1 Joseph Amato</p> <p>2 talking about the same things here. On this</p> <p>3 document filed with the secretary of state's</p> <p>4 office, it concerns an amending the</p> <p>5 certificate of limited partnership regarding</p> <p>6 Alexander Capital, LP, okay?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Okay. Is that your</p> <p>9 understanding, that this document is</p> <p>10 purporting to do that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And then it says, "The name</p> <p>13 of the limited partnership is Alexander</p> <p>14 Capital, LP."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And then it says that, "The</p> <p>18 certificate of limited partnership, referring</p> <p>19 to Alexander Capital, LP, shall be amended as</p> <p>20 follows: The name and mailing address of</p> <p>21 each general partner, referring to Alexander</p> <p>22 Capital, LP, is as follows, Nesa Management</p> <p>23 LLC," at the Alexander Capital, LP office</p> <p>24 address.</p> <p>25 Is that your understanding of what</p>	<p style="text-align: right;">Page 31</p> <p>1 Joseph Amato</p> <p>2 that you just referred to, does that include</p> <p>3 Exitus, LLC, now?</p> <p>4 A. Currently, no.</p> <p>5 Q. Yeah. Does it include Mr.</p> <p>6 Figliolo?</p> <p>7 A. No.</p> <p>8 Q. Okay. Now, I said that this was</p> <p>9 182, and let me just show you another</p> <p>10 document. All right, I am now putting up on</p> <p>11 the screen another filing with the Delaware</p> <p>12 secretary of state's office. Do you see,</p> <p>13 "Delaware the First State" on the screen?</p> <p>14 A. I do.</p> <p>15 Q. Okay. And this is a filing that</p> <p>16 was also made just a couple of days ago with</p> <p>17 the secretary of state's office, regarding</p> <p>18 Alexander Capital, LP. And it states,</p> <p>19 similar to the one previously, that "The</p> <p>20 undersigned to this document desires to amend</p> <p>21 their certificate of limited partnership</p> <p>22 pursuant to Delaware law and certifies that</p> <p>23 the name of the limited partnership is</p> <p>24 Alexander Capital, LP." And similar to the</p> <p>25 other one, it says, "Article 3 of the</p>
<p style="text-align: right;">Page 30</p> <p>1 Joseph Amato</p> <p>2 this document --</p> <p>3 A. My -- my -- if legal prepared and</p> <p>4 Nesa Management is considered with the</p> <p>5 document, then, yes.</p> <p>6 Q. Okay. Do you have any reason to</p> <p>7 disagree with the designation of Nesa</p> <p>8 Management as the general partner of</p> <p>9 Alexander Capital, LP?</p> <p>10 A. No.</p> <p>11 Q. In your -- is it your</p> <p>12 understanding, as to whether there are any</p> <p>13 other general partners of Alexander Capital,</p> <p>14 LP, as of this date?</p> <p>15 A. I don't believe so. I would be</p> <p>16 uncertain 100 percent, though.</p> <p>17 Q. Okay. But you don't believe there</p> <p>18 are other general partners of Alexander</p> <p>19 Capital, LP, as we sit here today?</p> <p>20 A. Again, I'm uncertain what they're</p> <p>21 designated as. I know there's other partners</p> <p>22 who have ownership interest. I don't know</p> <p>23 how they legally are designated, so I can't</p> <p>24 answer properly. I would be uncertain.</p> <p>25 Q. Okay. Are any of those partners</p>	<p style="text-align: right;">Page 32</p> <p>1 Joseph Amato</p> <p>2 certificate of limited partnership shall be</p> <p>3 amended as follows." However, in this</p> <p>4 document, filed at the same time as the one</p> <p>5 as Exhibit 182, this is Exhibit 181, "the</p> <p>6 name and mailing address of each general</p> <p>7 partner is as follows: Exitus, LLC," at the</p> <p>8 Alexander Capital, LP address. Do you see</p> <p>9 that?</p> <p>10 A. I do.</p> <p>11 Q. And it says, "This amendment is</p> <p>12 effective December 19, 2013, for accounting</p> <p>13 purposes only."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Okay. Now, is it your</p> <p>17 understanding that, as we sit here today,</p> <p>18 that Exitus, LLC, is a general partner in</p> <p>19 Alexander Capital, LP?</p> <p>20 A. No, I'd be uncertain.</p> <p>21 Q. Do you have any reason to believe</p> <p>22 that it is the general partner of Alexander</p> <p>23 Capital, LP, right now?</p> <p>24 A. Today, no, not today.</p> <p>25 Q. Okay. Now, this document is signed</p>

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<p style="text-align: right;">Page 33</p> <p>1 Joseph Amato</p> <p>2 "Exitus, LLC, general partner," and this is</p> <p>3 signed by Mr. Joseph Figliolo, as the</p> <p>4 authorized person for Exitus, which is</p> <p>5 calling itself "the general partner," and is</p> <p>6 naming itself in this filing as a "general</p> <p>7 partner of Alexander Capital, LP."</p> <p>8 Do you see that?</p> <p>9 A. Exitus, LLC, December 19, 2013,</p> <p>10 yes, I see that.</p> <p>11 Q. The amendment is effective, then?</p> <p>12 A. Correct.</p> <p>13 Q. Okay, but the -- it's saying "the</p> <p>14 general partner is as of this date." So it's</p> <p>15 effective from December 19, 2013, all the way</p> <p>16 through today.</p> <p>17 MR. WARD: Objection.</p> <p>18 Misstates the record.</p> <p>19 MR. SCHLICHTMANN: All</p> <p>20 right.</p> <p>21 Q. Well, in reading this document, it</p> <p>22 uses the word "is" when talking about "the</p> <p>23 name and mailing address of each general</p> <p>24 partner is as follows." Meaning, presently</p> <p>25 is, using the present tense, Exitus LLC. You</p>	<p style="text-align: right;">Page 35</p> <p>1 Joseph Amato</p> <p>2 Q. What it's purporting to represent?</p> <p>3 A. How you are representing it, I</p> <p>4 don't believe. I believe it's stating for</p> <p>5 December 19, 2013. That's my opinion.</p> <p>6 That's how I feel.</p> <p>7 Q. Okay.</p> <p>8 A. I don't agree with you.</p> <p>9 Q. Okay. So is it your understanding,</p> <p>10 then, that Exitus was a general partner, as</p> <p>11 of December 2013?</p> <p>12 A. They may have been. I don't know</p> <p>13 the dates. I was an employee of the firm at</p> <p>14 the time, and I was shortly thereafter not</p> <p>15 working at that time at the firm. So, again,</p> <p>16 I believe that that's when he -- he was</p> <p>17 effective general partner.</p> <p>18 Q. Okay. And what's your</p> <p>19 understanding as to when Exitus, owned by Mr.</p> <p>20 Figliolo, stopped being a general partner of</p> <p>21 Alexander Capital, LP, as best you can tell</p> <p>22 us?</p> <p>23 A. I don't recall the exact date. It</p> <p>24 may have been in that 2017 time frame, from</p> <p>25 what the other document, the other disclosure</p>
<p style="text-align: right;">Page 34</p> <p>1 Joseph Amato</p> <p>2 disagree with that; is that correct? That's</p> <p>3 not your understanding? Is that right? That</p> <p>4 Exitus is not presently the general partner</p> <p>5 of Alexander Capital, LP; is that correct?</p> <p>6 MR. WARD: Objection.</p> <p>7 Misstating.</p> <p>8 Q. If you understand the question --</p> <p>9 if you don't, let me know and I will rephrase</p> <p>10 it.</p> <p>11 You can answer, if you understand</p> <p>12 the question.</p> <p>13 A. Is this for me?</p> <p>14 Q. Yes, it is, I'm sorry.</p> <p>15 A. You and Bryan were talking so --</p> <p>16 MR. WARD: You can answer,</p> <p>17 Joe. I will be making objections</p> <p>18 today, and after I object, you can</p> <p>19 still respond, to the extent you --</p> <p>20 A. I don't understand them to be</p> <p>21 general partner today. I don't agree with</p> <p>22 what you are stating.</p> <p>23 Q. Okay. Or what this document is</p> <p>24 purporting to represent?</p> <p>25 A. Yes, I don't believe that.</p>	<p style="text-align: right;">Page 36</p> <p>1 Joseph Amato</p> <p>2 you showed me earlier. But, again, I still</p> <p>3 couldn't give you 100 percent on the date, as</p> <p>4 I stated earlier.</p> <p>5 Q. Is it your understanding that</p> <p>6 there's any disagreement between Nesa</p> <p>7 Management, LLC, and yourself, and Mr.</p> <p>8 Guidici Pietro, on one side, and Exitus and</p> <p>9 Mr. Figliolo, on the other side?</p> <p>10 Is it your understanding that</p> <p>11 there's some disagreement between the two</p> <p>12 entities and the owners of those entities</p> <p>13 regarding who are the general partner -- who</p> <p>14 is the general partner or who are the general</p> <p>15 partners of Alexander Capital, LP?</p> <p>16 A. I don't -- I don't believe so.</p> <p>17 Q. Has Mr. Figliolo or anyone</p> <p>18 associated with Exitus indicated to you that</p> <p>19 they believe that they are the general</p> <p>20 partner of Alexander Capital, LP, as of</p> <p>21 today?</p> <p>22 A. No, they have not.</p> <p>23 Q. Have they indicated -- has anyone</p> <p>24 from -- representing Exitus, LLC, or Mr.</p> <p>25 Figliolo, at any time in the past indicated</p>

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<p style="text-align: right;">Page 37</p> <p>1 Joseph Amato</p> <p>2 to you that they are no longer -- they no</p> <p>3 longer consider themselves the general</p> <p>4 partner of Alexander Capital, LP?</p> <p>5 A. I don't recall.</p> <p>6 Q. And do you recall any</p> <p>7 communications with anyone representing</p> <p>8 Exitus, LLC, or Mr. Figliolo in the past, in</p> <p>9 which Nesa Management or anyone representing</p> <p>10 Nesa Management or yourself, or</p> <p>11 Mr. Guidici Pietro informed Exitus, LLC, or</p> <p>12 anyone representing Exitus, LLC, including</p> <p>13 Mr. Figliolo, that you did not -- that your</p> <p>14 group, the Nesa -- including yourself and Mr.</p> <p>15 Guidici Pietro, did not consider Exitus a</p> <p>16 general partner of Alexander Capital, LP, as</p> <p>17 of a certain date?</p> <p>18 A. I don't recall.</p> <p>19 Q. Okay. Can you explain at all why</p> <p>20 there have been two filings in the last two</p> <p>21 days, one by Mr. Figliolo, regarding Exitus,</p> <p>22 and one by Mr. Guidici Pietro, regarding Nesa</p> <p>23 Management, why there were two separate</p> <p>24 filings in the last couple of days? Do you</p> <p>25 have any understanding or explanation</p>	<p style="text-align: right;">Page 39</p> <p>1 Joseph Amato</p> <p>2 you mean?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Is that -- so recently you</p> <p>5 saw this chart?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Now, in looking it over</p> <p>8 recently and looking it over today, do you</p> <p>9 recognize it at all as something you have</p> <p>10 seen before, or was it the first time you saw</p> <p>11 it, in preparation for the deposition?</p> <p>12 A. I believe it was the first time I</p> <p>13 may have seen it, in preparation for the</p> <p>14 deposition.</p> <p>15 Q. All right. Now, are you familiar</p> <p>16 with charts like this?</p> <p>17 A. Somewhat, sure.</p> <p>18 Q. What's your understanding of what</p> <p>19 charts like this are depicting?</p> <p>20 A. It -- many different things it</p> <p>21 could depict in this case. I am uncertain</p> <p>22 what this is used for or how it's used.</p> <p>23 Q. All right. Is it consistent with</p> <p>24 your understanding that a chart like this is</p> <p>25 showing a corporate hierarchy of who is</p>
<p style="text-align: right;">Page 38</p> <p>1 Joseph Amato</p> <p>2 regarding that?</p> <p>3 A. I do not.</p> <p>4 Q. All right. I am going to show you</p> <p>5 a -- can you see a chart on there with a lot</p> <p>6 of blue boxes?</p> <p>7 A. I do.</p> <p>8 Q. Can you read it clearly, the names</p> <p>9 in there and all that? Do I have to blow it</p> <p>10 up at all or can you see it clearly?</p> <p>11 A. I can see it clearly.</p> <p>12 Q. All right. Now, I am going to</p> <p>13 represent to you that this is a chart that</p> <p>14 was submitted by Alexander Capital, LP, to</p> <p>15 FINRA, in 2015, as part of their application</p> <p>16 for -- as part of their continuing membership</p> <p>17 application that they filed in 2015, all</p> <p>18 right? I want you to assume that that's</p> <p>19 true, all right?</p> <p>20 Now, having looked at the chart, is</p> <p>21 this chart familiar to you? Is it something</p> <p>22 you have seen before, before I showed it to</p> <p>23 you right now?</p> <p>24 A. Just in preparation for this trial.</p> <p>25 Q. You saw this for the deposition,</p>	<p style="text-align: right;">Page 40</p> <p>1 Joseph Amato</p> <p>2 subordinate to who in the corporation, who is</p> <p>3 superior to who in the corporation, who was</p> <p>4 on equal par with who in the corporation? Is</p> <p>5 that consistent with your understanding that</p> <p>6 a chart like this is trying to depict that</p> <p>7 relationship in diagrammatic form?</p> <p>8 A. Possibly.</p> <p>9 Q. All right. So assuming that that's</p> <p>10 what it's trying to do, do you see at the top</p> <p>11 of the chart, there's Mr. Guidici Pietro at</p> <p>12 the top left, and then there's your name on</p> <p>13 the top right?</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. All right. And you will notice</p> <p>17 that you and Mr. Guidici Pietro are at the top</p> <p>18 of the chart, right? Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Okay. Is it your understanding</p> <p>21 that the placement -- is it consistent with</p> <p>22 your understanding of charts like this, that</p> <p>23 the placement of these two blocks containing</p> <p>24 your name and Mr. Guidici Pietro's name, is an</p> <p>25 indication that they are at the -- that they</p>

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<p style="text-align: right;">Page 41</p> <p>1 Joseph Amato</p> <p>2 are at the highest level of management in the</p> <p>3 -- in -- in the corporation being or the</p> <p>4 entity being depicted here, in this case,</p> <p>5 Alexander Capital, LP?</p> <p>6 A. Not necessarily.</p> <p>7 Q. It's not?</p> <p>8 A. No.</p> <p>9 Q. All right. Do you see that Mr. --</p> <p>10 in Mr. Guidici Pietro's box it says, "COO"?</p> <p>11 A. I do.</p> <p>12 Q. All right. Do you know what that</p> <p>13 stands for?</p> <p>14 A. Chief operating officer.</p> <p>15 Q. All right. And was it your</p> <p>16 understanding that Mr. Guidici Pietro was the</p> <p>17 chief operating officer in 2015?</p> <p>18 A. I believe he was.</p> <p>19 Q. And over to the right it says,</p> <p>20 "Joseph Amato," and it says, "president." Do</p> <p>21 you see that?</p> <p>22 A. I do.</p> <p>23 Q. Was it your understanding, in 2015,</p> <p>24 you were the president of Alexander Capital,</p> <p>25 LP?</p>	<p style="text-align: right;">Page 43</p> <p>1 Joseph Amato</p> <p>2 A. The -- it was an options, principal</p> <p>3 role that it could -- that it could mean I</p> <p>4 had -- but there are other Series 4s on the</p> <p>5 chart who may have been doing that role. I</p> <p>6 don't recall at the time.</p> <p>7 Q. So under your name there's a</p> <p>8 number. Do you see that; 2751635?</p> <p>9 A. I do.</p> <p>10 Q. Does that have -- does that number</p> <p>11 have any meaning to you?</p> <p>12 A. I believe that's my CRD number.</p> <p>13 Q. When you say, "CRD," what's your</p> <p>14 understanding of what "CRD" is?</p> <p>15 A. That's my identification code for</p> <p>16 FINRA.</p> <p>17 Q. Now, when you say your</p> <p>18 "identification code for FINRA," what's the</p> <p>19 nature of that -- how did you obtain that</p> <p>20 code?</p> <p>21 A. I believe it was given to me when I</p> <p>22 passed my Series 7, but I am uncertain how</p> <p>23 they derived of that and that number.</p> <p>24 Q. Okay, but you're a -- is it your</p> <p>25 understanding that you have certain -- you</p>
<p style="text-align: right;">Page 42</p> <p>1 Joseph Amato</p> <p>2 A. No.</p> <p>3 Q. What did you consider your position</p> <p>4 to be at Alexander Capital, LP, in 2015?</p> <p>5 A. I was possibly, and I can't say</p> <p>6 with certainty, I might have still been the</p> <p>7 CROP or ROP, at that time, representative.</p> <p>8 We don't use the title "president" here at</p> <p>9 the firm.</p> <p>10 Q. Okay. How about -- all right, and</p> <p>11 you used the phrase "CROP," is that C-R-O-P?</p> <p>12 A. Yes, CROP or ROP, which would</p> <p>13 represent the floor, but, again, I couldn't</p> <p>14 tell you if I was on the floor at that time.</p> <p>15 Q. Okay, but just to be clear, because</p> <p>16 you are using some terminology, I want to</p> <p>17 make sure that everybody understands the</p> <p>18 terminology. You used the term C-R-O-P,</p> <p>19 CROP; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And then you used the phrase R-O-P,</p> <p>22 ROP; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Now, what's your</p> <p>25 understanding that "CROP" stands for?</p>	<p style="text-align: right;">Page 44</p> <p>1 Joseph Amato</p> <p>2 have certain licenses from FINRA?</p> <p>3 A. Yes.</p> <p>4 Q. F-I-N-R-A.</p> <p>5 A. I apologize, what was that?</p> <p>6 Q. I just want to make sure, for the</p> <p>7 stenographer's standpoint, when we refer to</p> <p>8 "FINRA," it's F-I-N-R-A, and that's the</p> <p>9 initials of an organization -- is that your</p> <p>10 understanding -- that regulates companies</p> <p>11 like Alexander Capital, LP, in the securities</p> <p>12 business?</p> <p>13 Is that correct?</p> <p>14 A. Well, we're a member of FINRA.</p> <p>15 Q. All right. And do you understand</p> <p>16 FINRA is a regulatory authority regarding the</p> <p>17 selling of securities by various companies</p> <p>18 like Alexander Capital, LP?</p> <p>19 A. I do.</p> <p>20 Q. All right. And is it your</p> <p>21 understanding that in order for anyone --</p> <p>22 company or person -- to be involved in the</p> <p>23 selling of securities in the United States,</p> <p>24 that they have to receive that authority from</p> <p>25 FINRA?</p>

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<p style="text-align: right;">Page 45</p> <p>1 Joseph Amato</p> <p>2 A. Yes.</p> <p>3 Q. And they receive that authority by</p> <p>4 becoming a member of FINRA?</p> <p>5 A. A registered representative working</p> <p>6 for a member firm, I believe, yes.</p> <p>7 Q. Okay. So if it's a company, it has</p> <p>8 to be a member, and if you are an individual,</p> <p>9 you have to be working for a member?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Okay. Now, it says, "24 and 4."</p> <p>12 What does that mean?</p> <p>13 What's your understanding of those</p> <p>14 two designations?</p> <p>15 A. Two of my licenses.</p> <p>16 Q. And does that have to do with the</p> <p>17 C-R-O-P and the R-O-P?</p> <p>18 A. Again, possibly. I hold the</p> <p>19 license, not necessarily means it's being</p> <p>20 used, so I don't know why -- I can't depict,</p> <p>21 from this chart, what this all represents.</p> <p>22 Q. Okay. In 2015, is it -- was it</p> <p>23 fair -- was it accurate to inform FINRA, in</p> <p>24 2015, that you held an executive position</p> <p>25 with Alexander Capital, LP, or that would</p>	<p style="text-align: right;">Page 47</p> <p>1 Joseph Amato</p> <p>2 that you held in Alexander Capital in 2015,</p> <p>3 and what I am specifically asking is, is --</p> <p>4 was it your understanding that you held an</p> <p>5 executive position at Alexander Capital, in</p> <p>6 2015, of any kind?</p> <p>7 A. Again, I stated earlier I am</p> <p>8 uncertain as to what role I had. I would</p> <p>9 have to look at CRD, at the time.</p> <p>10 Q. Okay. And this chart, which was</p> <p>11 submitted to FINRA, I represent to you, with</p> <p>12 a -- with your name on it on a corporate</p> <p>13 hierarchy chart, with "president" underneath</p> <p>14 it, would that have been accurate for --</p> <p>15 A. Again --</p> <p>16 Q. Wait until I finish. Would that</p> <p>17 have been accurate to represent to FINRA, by</p> <p>18 anyone at Alexander Capital, that in fact the</p> <p>19 office that you held in 2015 was president?</p> <p>20 A. Possibly. I am uncertain.</p> <p>21 Q. All right. And looking at this</p> <p>22 chart and with the understanding that -- that</p> <p>23 this was submitted in 2015, that doesn't help</p> <p>24 you at all in refreshing your recollection as</p> <p>25 to the executive position you held at</p>
<p style="text-align: right;">Page 46</p> <p>1 Joseph Amato</p> <p>2 have been inaccurate to represent to FINRA,</p> <p>3 that you held an executive position with</p> <p>4 Alexander Capital, LP, at that time?</p> <p>5 A. Inform them through this chart, no.</p> <p>6 Q. All right. Well, I mean, inform</p> <p>7 them in any way, any representation to FINRA</p> <p>8 in 2015, okay, from Alexander Capital, LP,</p> <p>9 for whatever reason, if they represented to</p> <p>10 -- would it have been appropriate for anyone</p> <p>11 at Alexander Capital, LP, to represent to</p> <p>12 FINRA, for any reason, that you, in 2015,</p> <p>13 held an executive position with Alexander</p> <p>14 Capital, LP?</p> <p>15 A. Not necessarily.</p> <p>16 Q. When you say, "not necessarily,"</p> <p>17 what circumstances would make it necessary?</p> <p>18 A. If they were ordered or if we were</p> <p>19 going through something, but it would be</p> <p>20 registered in their system already, so I</p> <p>21 wouldn't have to tell them. They know my</p> <p>22 license. I may have licenses and not being</p> <p>23 used.</p> <p>24 Q. What I am specifically asking, not</p> <p>25 about licenses, but about the actual position</p>	<p style="text-align: right;">Page 48</p> <p>1 Joseph Amato</p> <p>2 Alexander Capital, in 2015?</p> <p>3 A. Absolutely not. It was not a title</p> <p>4 we used.</p> <p>5 Q. Was there another executive -- were</p> <p>6 there another executive titles that were used</p> <p>7 in Alexander Capital, in 2015, other than</p> <p>8 president?</p> <p>9 If president wasn't used, were</p> <p>10 there other executive titles?</p> <p>11 A. Yes.</p> <p>12 Q. What were they?</p> <p>13 A. COO, CEO, CCO, branch manager, MSRB</p> <p>14 representative. Things such as that.</p> <p>15 Q. Okay. I'm sorry, I don't mean to</p> <p>16 interrupt.</p> <p>17 A. FINOP. Yes, there were other</p> <p>18 titles.</p> <p>19 Q. All right. So underneath is Mr.</p> <p>20 Feinman, and he is -- it has "CEO" under his</p> <p>21 name.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. Okay. CEO, your understanding was</p> <p>25 it stands for chief executive officer,</p>

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<p style="text-align: right;">Page 49</p> <p>1 Joseph Amato</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. All right. And was it your</p> <p>5 understanding, in 2015, Mr. Feinman was the</p> <p>6 CEO of Alexander Capital, LP?</p> <p>7 A. I would be uncertain. I would have</p> <p>8 to see CRD, at the time.</p> <p>9 Q. All right. Does this chart that</p> <p>10 was submitted in 2015 to FINRA help you in</p> <p>11 any way refresh your recollection?</p> <p>12 A. No.</p> <p>13 Q. Okay. Do you see Timothy Stack's</p> <p>14 name underneath the CEO, Mr. Feinman?</p> <p>15 A. I do.</p> <p>16 Q. And that has CCO -- CCO. Do you</p> <p>17 see that?</p> <p>18 A. I do.</p> <p>19 Q. And what's your understanding of</p> <p>20 what CCO stood for?</p> <p>21 A. Chief compliance officer.</p> <p>22 Q. Was it your understanding, in 2015,</p> <p>23 that Mr. Stack was the chief compliance</p> <p>24 officer at Alexander Capital, LP?</p> <p>25 A. No, I would have to see CRD for the</p>	<p style="text-align: right;">Page 51</p> <p>1 Joseph Amato</p> <p>2 without seeing the CRD myself.</p> <p>3 Q. Okay. To your knowledge, how long</p> <p>4 has Mr. Gazdak -- is Mr. Gazdak head of</p> <p>5 investment banking right now?</p> <p>6 A. Today, he is, correct.</p> <p>7 Q. So if he said that he was -- began</p> <p>8 in 2014 as head of investment banking, and</p> <p>9 you know that he is head of investment</p> <p>10 banking now, is it your understanding that he</p> <p>11 has maintained that position throughout the</p> <p>12 entire time from when he began, to his</p> <p>13 present position now?</p> <p>14 A. I couldn't answer that.</p> <p>15 Q. Do you have any reason to believe</p> <p>16 that Mr. Gazdak was not head of investment</p> <p>17 banking at any time from when he started in</p> <p>18 2014 to the present?</p> <p>19 A. Again, I don't know what the exact</p> <p>20 title was then.</p> <p>21 Q. All right. Well, Mr. Gazdak</p> <p>22 testified that the position he holds now is</p> <p>23 the position he held when he began in 2014</p> <p>24 and hasn't changed.</p> <p>25 A. Then I believe him to be truthful.</p>
<p style="text-align: right;">Page 50</p> <p>1 Joseph Amato</p> <p>2 time frame.</p> <p>3 Q. And do you see down below further,</p> <p>4 Jonathan Gazdak?</p> <p>5 A. I do.</p> <p>6 Q. You see it says, "investment</p> <p>7 banking"?</p> <p>8 A. I do.</p> <p>9 Q. Do you know Mr. Gazdak?</p> <p>10 A. I do.</p> <p>11 Q. And do you know what position he</p> <p>12 held at Alexander Capital, LP?</p> <p>13 A. At the time, I do not.</p> <p>14 Q. All right. Do you know when Mr.</p> <p>15 Gazdak started to work for Alexander Capital,</p> <p>16 LP?</p> <p>17 A. I would have to see CRD.</p> <p>18 Q. But you don't have any memory?</p> <p>19 A. I do not.</p> <p>20 Q. Okay. If Mr. Gazdak testified that</p> <p>21 he began his employment relationship with</p> <p>22 Alexander Capital in 2014, does that help</p> <p>23 refresh your recollection at all?</p> <p>24 A. If -- if that's what he stated -- I</p> <p>25 couldn't tell you. I still can't answer</p>	<p style="text-align: right;">Page 52</p> <p>1 Joseph Amato</p> <p>2 Q. Okay. You have no independent</p> <p>3 memory of that?</p> <p>4 A. I can't answer for what I don't</p> <p>5 know wholeheartedly, no.</p> <p>6 Q. Do you know a Mr. Steven Walsh?</p> <p>7 A. I know the name, yes.</p> <p>8 Q. And what's your -- and does he --</p> <p>9 has he held any position at Alexander</p> <p>10 Capital, LP, in your -- to your memory?</p> <p>11 A. I believe he may have.</p> <p>12 Q. Do you know what position?</p> <p>13 A. Which Steven Walsh, I'm sorry?</p> <p>14 Q. Is there more than one at Alexander</p> <p>15 Capital, LP?</p> <p>16 A. No. But I know the name and, no,</p> <p>17 so he -- I don't recall what his title was.</p> <p>18 Q. Do you know what he was involved</p> <p>19 in?</p> <p>20 A. He worked, I believe, with Mr.</p> <p>21 Gazdak.</p> <p>22 Q. In investment banking?</p> <p>23 A. I believe so, yes.</p> <p>24 Q. Okay. And now do you know Mr.</p> <p>25 Carlin?</p>

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<p style="text-align: right;">Page 53</p> <p>1 Joseph Amato</p> <p>2 A. I do.</p> <p>3 Q. What's your understanding of Mr.</p> <p>4 Carlin's position at Alexander Capital, LP?</p> <p>5 A. At the time, I don't know. I don't</p> <p>6 see him on the chart, and I don't know when</p> <p>7 he started either.</p> <p>8 Q. Okay. What is your understanding</p> <p>9 of his present position?</p> <p>10 A. Capital Markets.</p> <p>11 Q. Is he -- is there anyone else</p> <p>12 involved with Capital Markets, other than Mr.</p> <p>13 Carlin?</p> <p>14 A. I believe there is.</p> <p>15 Q. What's your understanding of the</p> <p>16 position that Mr. Carlin has in Capital</p> <p>17 Markets?</p> <p>18 Is he the head of that -- of</p> <p>19 Capital Markets or just does he report to</p> <p>20 somebody at Capital Markets?</p> <p>21 A. I believe he is the head of Capital</p> <p>22 Markets today.</p> <p>23 Q. And who reports to Mr. Carlin, in</p> <p>24 accordance with your understanding?</p> <p>25 A. Today?</p>	<p style="text-align: right;">Page 55</p> <p>1 Joseph Amato</p> <p>2 Q. What was your understanding of the</p> <p>3 relationship between Capital Markets and</p> <p>4 Investment Banking at Alexander Capital, LP?</p> <p>5 A. I believe they worked together.</p> <p>6 Q. And were they considered on the</p> <p>7 same level of -- in the corporate hierarchy,</p> <p>8 or did Capital Markets -- was it subordinate</p> <p>9 to Investment Banking?</p> <p>10 A. I couldn't answer that. I don't</p> <p>11 know.</p> <p>12 Q. You see on this chart you have</p> <p>13 financial -- FINOP, right, which you</p> <p>14 understand to be "financial operations"; is</p> <p>15 that right?</p> <p>16 A. Correct.</p> <p>17 Q. And you see that it's alongside the</p> <p>18 block for Mr. Gazdak, Investment Banking, do</p> <p>19 you see that?</p> <p>20 A. I do.</p> <p>21 Q. And is it -- is your -- is it</p> <p>22 consistent with your understanding, as of</p> <p>23 2015, that financial operations was</p> <p>24 considered on the same par in the corporate</p> <p>25 hierarchy as Investment Banking?</p>
<p style="text-align: right;">Page 54</p> <p>1 Joseph Amato</p> <p>2 Q. Yes.</p> <p>3 A. I believe, Mr. Messina.</p> <p>4 Q. Anyone else?</p> <p>5 A. I believe, I don't know Marc's last</p> <p>6 name off the top of my head. I would have to</p> <p>7 see an active CRD.</p> <p>8 Q. Okay. And as -- now, is that --</p> <p>9 has that always been the case, that those two</p> <p>10 gentlemen that you just named reported to Mr.</p> <p>11 Carlin, or was that something that happened</p> <p>12 either recently or sometime in the past?</p> <p>13 A. Not always.</p> <p>14 Q. Okay. And in 2014 and 2015, was it</p> <p>15 your understanding that Mr. Carlin was</p> <p>16 employed at Alexander Capital, LP?</p> <p>17 A. I don't know the start date, but I</p> <p>18 know he was employed at the firm prior to</p> <p>19 2018.</p> <p>20 Q. And if he testified that he did</p> <p>21 begin his association with Alexander Capital</p> <p>22 in 2014, is that consistent with your</p> <p>23 understanding?</p> <p>24 A. Again, it may be. I just don't</p> <p>25 know his exact start date.</p>	<p style="text-align: right;">Page 56</p> <p>1 Joseph Amato</p> <p>2 A. I would be unaware. I couldn't</p> <p>3 answer that.</p> <p>4 Q. Was it your understanding that</p> <p>5 Financial Operations was superior to</p> <p>6 Investment Banking or subordinate to it?</p> <p>7 A. I couldn't answer that. I don't</p> <p>8 know.</p> <p>9 Q. Based on your understanding of the</p> <p>10 corporate hierarchy of Alexander Capital, LP,</p> <p>11 then and now, you're not able to help us?</p> <p>12 A. No.</p> <p>13 Q. If a chart -- if a corporate chart</p> <p>14 was to be submitted to FINRA in 2015,</p> <p>15 depicting the corporate hierarchy of</p> <p>16 Alexander Capital, LP, would you consider</p> <p>17 this chart, Exhibit 132, to fairly and</p> <p>18 accurately represent that corporate</p> <p>19 hierarchy, as of 2015, or you can't -- you</p> <p>20 can't help us?</p> <p>21 A. I can't help you with that.</p> <p>22 Q. Cannot help, okay.</p> <p>23 Mr. Amato, we talked about FINRA</p> <p>24 and membership in FINRA, and you testified</p> <p>25 that you're aware that Alexander Capital was</p>

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<p style="text-align: right;">Page 57</p> <p>1 Joseph Amato</p> <p>2 required to be a member of FINRA in order to</p> <p>3 be involved in the offer of sales of</p> <p>4 securities; is that correct?</p> <p>5 A. I believe so, yes.</p> <p>6 Q. All right. And is it your</p> <p>7 understanding that as -- the membership in</p> <p>8 FINRA required Alexander Capital to have an</p> <p>9 agreement, an actual written agreement with</p> <p>10 FINRA?</p> <p>11 Is that your understanding?</p> <p>12 A. I believe so, yes.</p> <p>13 Q. All right. And is it that -- in</p> <p>14 fact, you know, that Alexander Capital and</p> <p>15 FINRA have a written agreement between them</p> <p>16 regarding Alexander Capital's membership in</p> <p>17 FINRA; is that correct?</p> <p>18 A. I believe so, yes.</p> <p>19 Q. And this is a document that you're</p> <p>20 familiar with?</p> <p>21 A. Not so much, but I know what it is.</p> <p>22 Q. All right. And is it your -- and</p> <p>23 was that -- were you familiar with that</p> <p>24 agreement soon after you became associated</p> <p>25 with Alexander Capital, LP?</p>	<p style="text-align: right;">Page 59</p> <p>1 Joseph Amato</p> <p>2 after acquiring the 24.9 percent interest,</p> <p>3 that yourself and Mr. Guidici Pietro, through</p> <p>4 Nesa Management, exercised management control</p> <p>5 over Alexander Capital, LP? Is that your</p> <p>6 understanding?</p> <p>7 A. There was people in place that ran</p> <p>8 the company, yes, but we did run and manage</p> <p>9 the company, correct.</p> <p>10 Q. All right. But those people that</p> <p>11 you just mentioned that managed the company,</p> <p>12 they were subordinate to you and Mr.</p> <p>13 Guidici Pietro; is that correct?</p> <p>14 A. No.</p> <p>15 Q. Did you believe that you and</p> <p>16 Mr. Guidici Pietro -- Guidici Pietro had any</p> <p>17 management control over the people at</p> <p>18 Alexander Capital, LP, or you thought you did</p> <p>19 not have management control over them?</p> <p>20 A. Don't believe so.</p> <p>21 Q. You don't believe you had</p> <p>22 management control over the people at</p> <p>23 Alexander Capital, LP; is that correct?</p> <p>24 A. That is correct.</p> <p>25 Q. And for how long -- and has that</p>
<p style="text-align: right;">Page 58</p> <p>1 Joseph Amato</p> <p>2 A. Not necessarily.</p> <p>3 Q. When is your memory of become --</p> <p>4 what is your memory of becoming aware of the</p> <p>5 agreement between Alexander Capital and</p> <p>6 FINRA, regarding its membership?</p> <p>7 A. I couldn't tell you.</p> <p>8 Q. When you...in December of 2013,</p> <p>9 after Nesa Management -- is it fair to say</p> <p>10 that after -- that in December 2013, that</p> <p>11 Nesa Management, LLC, and yourself, and Mr.</p> <p>12 Guidici Pietro, became the managing partner of</p> <p>13 Alexander Capital, LP, as of December 2013?</p> <p>14 A. I don't recall the exact date.</p> <p>15 Q. Does that sound right?</p> <p>16 A. I don't recall the exact date. I</p> <p>17 know we discussed it. I just don't recall</p> <p>18 the exact date as to when we were involved</p> <p>19 with the company.</p> <p>20 Q. Okay, but I believe previously we</p> <p>21 established that in December 2013, Alexander</p> <p>22 -- Nesa received a 24.9 percent interest in</p> <p>23 Alexander Capital, LP. You remember that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And is it your memory that</p>	<p style="text-align: right;">Page 60</p> <p>1 Joseph Amato</p> <p>2 been your belief from December 2013, to the</p> <p>3 present?</p> <p>4 A. Yes.</p> <p>5 Q. So it's your testimony that at no</p> <p>6 time did you or Mr. Guidici Pietro exercise</p> <p>7 management control over the people at</p> <p>8 Alexander Capital, LP?</p> <p>9 Is that what you are saying?</p> <p>10 A. We had chief operating officers,</p> <p>11 you know, compliance officers and others who</p> <p>12 managed the everyday of the firm.</p> <p>13 Q. Right, but did you consider</p> <p>14 yourself and Mr. Guidici Pietro as having</p> <p>15 management authority over those people?</p> <p>16 A. I -- I don't understand the</p> <p>17 question fully.</p> <p>18 Q. Okay. I want to be very clear.</p> <p>19 What I am asking is, if -- did I understand</p> <p>20 your testimony correctly that you did not</p> <p>21 consider, from December 2013 to the present,</p> <p>22 that you and Mr. Guidici Pietro could exercise</p> <p>23 management control over everyone else at</p> <p>24 Alexander Capital, LP?</p> <p>25 A. I cannot over everyone, no. I</p>

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<p style="text-align: right;">Page 61</p> <p>1 Joseph Amato</p> <p>2 agree with that.</p> <p>3 Q. Who could you exercise management</p> <p>4 control over?</p> <p>5 A. I don't know. Directly, I don't</p> <p>6 believe anyone.</p> <p>7 Q. Okay.</p> <p>8 A. Unless I hold the role for the firm</p> <p>9 titled to do so and I don't believe I do.</p> <p>10 Q. "Unless," I'm sorry?</p> <p>11 A. Unless I'm the chief compliance</p> <p>12 officer and had a different role in the firm.</p> <p>13 As of now, I do not.</p> <p>14 Q. Is it your opinion that the person</p> <p>15 who has ultimate management -- was it your</p> <p>16 understanding, during -- from December 2013</p> <p>17 to the present, that the -- that the officer</p> <p>18 who had ultimate management control over</p> <p>19 Alexander Capital, LP, was the chief</p> <p>20 compliance officer, or someone else?</p> <p>21 A. It would be the chief compliance</p> <p>22 officer, in my estimation.</p> <p>23 Q. How about the CEO?</p> <p>24 A. No.</p> <p>25 Q. Okay. And who -- did anyone have</p>	<p style="text-align: right;">Page 63</p> <p>1 Joseph Amato</p> <p>2 A. No management responsibilities for</p> <p>3 the everyday running of the company, no.</p> <p>4 Q. And what was your understanding,</p> <p>5 from December 2013 to the present, as to</p> <p>6 whether Guidici Pietro had any management</p> <p>7 responsibilities over the CEO?</p> <p>8 A. I -- I don't know.</p> <p>9 Q. What was your understanding as to</p> <p>10 whether you, in the various positions that</p> <p>11 you held from December 2013 to the present,</p> <p>12 had any management responsibilities over the</p> <p>13 CEO?</p> <p>14 A. I -- at the time, I did not, I</p> <p>15 don't believe so, no.</p> <p>16 Q. Are you talking about December 2013</p> <p>17 to the present?</p> <p>18 A. That's what you stated. I don't</p> <p>19 believe so. From December '13, you asked,</p> <p>20 correct?</p> <p>21 Q. December of 2013, just a month,</p> <p>22 December 2013 to the present, is that what</p> <p>23 you are saying?</p> <p>24 A. If I had control over the CEO? I</p> <p>25 was the CEO. Is that what you are asking?</p>
<p style="text-align: right;">Page 62</p> <p>1 Joseph Amato</p> <p>2 management control over the chief compliance</p> <p>3 over?</p> <p>4 A. The chief compliance officer does</p> <p>5 an annual report -- I guess, replies to the</p> <p>6 CEO, but I -- the CEO cannot control the</p> <p>7 chief compliance officer independently. They</p> <p>8 have control.</p> <p>9 Q. Okay, but the chief compliance</p> <p>10 officer reports to the CEO?</p> <p>11 A. On an annual basis, yes, but they</p> <p>12 run the company.</p> <p>13 Q. Your understanding, from December</p> <p>14 2013 to the present, is that it's the chief</p> <p>15 compliance officer who runs the company on a</p> <p>16 day-to-day basis? Is that what you are</p> <p>17 saying?</p> <p>18 A. Dictates the rules and -- correct,</p> <p>19 yes.</p> <p>20 Q. What's your understanding as to the</p> <p>21 role of the CEO at Alexander Capital, from</p> <p>22 December 2013 to the present -- to the</p> <p>23 present?</p> <p>24 What is -- what was his management</p> <p>25 responsibilities, if any?</p>	<p style="text-align: right;">Page 64</p> <p>1 Joseph Amato</p> <p>2 Q. Did you have control over the CEO?</p> <p>3 A. Can you reask that question?</p> <p>4 Q. Of course. From December 2013 to</p> <p>5 the present, did you have an understanding,</p> <p>6 at any time, that you exercised management</p> <p>7 responsibilities -- that you could exercise</p> <p>8 management responsibilities over Alexander</p> <p>9 Capital's CEO, during that period of time?</p> <p>10 A. I can't answer that question.</p> <p>11 Q. Why is that?</p> <p>12 A. I'm being asked if I can manage</p> <p>13 myself.</p> <p>14 Q. Well, I'm -- all right. Because at</p> <p>15 some point you were the CEO at Alexander</p> <p>16 Capital, LP; is that what you are saying?</p> <p>17 A. I am the CEO of the company,</p> <p>18 correct.</p> <p>19 Q. Okay. Do you know the period of</p> <p>20 time that you were the CEO of Alexander</p> <p>21 Capital, LP?</p> <p>22 A. I do not. We'd have to go to CRD.</p> <p>23 Q. Was it the -- before Mr. Feinman</p> <p>24 assumed that position or after?</p> <p>25 A. I don't recall the exact dates.</p>

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<p style="text-align: right;">Page 65</p> <p>1 Joseph Amato</p> <p>2 Q. Do you have your best memory as to</p> <p>3 whether it was before Mr. Feinman became CEO</p> <p>4 or after he stopped being CEO?</p> <p>5 A. I don't recall because the role</p> <p>6 changed so many times over the years.</p> <p>7 Q. All right. Now, you mentioned you</p> <p>8 do have a memory of being CEO at some point?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And -- but you don't</p> <p>11 remember the period of time; is that correct?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. Other than CEO, do you</p> <p>14 remember ever occupying an executive position</p> <p>15 at Alexander Capital, LP, other than CEO?</p> <p>16 A. Yes.</p> <p>17 Q. What positions? Executive</p> <p>18 positions?</p> <p>19 A. The CROP, ROP, and SROP, I believe.</p> <p>20 Q. So now we have added another one,</p> <p>21 SROP. What's the acronym? What are the</p> <p>22 initials?</p> <p>23 A. S-R-O-P.</p> <p>24 Q. What does that stand for?</p> <p>25 A. I don't know the desig- -- the,</p>	<p style="text-align: right;">Page 67</p> <p>1 Joseph Amato</p> <p>2 before Mr. Feinman or after, correct?</p> <p>3 A. It may have been both. I am</p> <p>4 uncertain as to the dates, correct.</p> <p>5 Q. It may have been both, before and</p> <p>6 after?</p> <p>7 A. Possibly. I don't know the dates.</p> <p>8 Q. Okay. And other than the times you</p> <p>9 were CEO, the only other position you</p> <p>10 remember holding at Alexander Capital is the</p> <p>11 -- whether it was SROP, ROP, or -- I think it</p> <p>12 was the three there. C-R-O-P, S-R-O-P, or</p> <p>13 R-O-P; is that correct?</p> <p>14 A. I believe so.</p> <p>15 Q. And those three acronyms, the</p> <p>16 S-R-O-P, R-O-P, C-R-O-P, they are solely</p> <p>17 related to the selling of options, correct?</p> <p>18 A. To options. Not necessarily</p> <p>19 selling, but options.</p> <p>20 Q. Solely regarding options and</p> <p>21 nothing else?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 MR. WARD: It's been a</p> <p>25 little over an hour. I just want</p>
<p style="text-align: right;">Page 66</p> <p>1 Joseph Amato</p> <p>2 exactly how it reads out in the definition,</p> <p>3 so I apologize.</p> <p>4 Q. What's your understanding of the</p> <p>5 executive position responsibilities of either</p> <p>6 CROP, or ROP, or SROP. C-R-O-P or S-R-O-P.</p> <p>7 What is your understanding as to</p> <p>8 whether they had any executive responsibility</p> <p>9 at Alexander Capital, LP, at any time, while</p> <p>10 you were occupying those positions?</p> <p>11 A. Options related.</p> <p>12 Q. So the selling of options?</p> <p>13 A. Yes. The business of options at</p> <p>14 the firm.</p> <p>15 Q. And nothing else?</p> <p>16 A. That's -- no, I don't believe</p> <p>17 anything else, no.</p> <p>18 Q. Okay, so is it fair to summarize</p> <p>19 your testimony, then, that the -- the -- that</p> <p>20 at some point you exercised the role of</p> <p>21 CEO -- you don't know when -- is that</p> <p>22 correct?</p> <p>23 A. I don't know the exact dates,</p> <p>24 correct.</p> <p>25 Q. Okay. You don't know if it was</p>	<p style="text-align: right;">Page 68</p> <p>1 Joseph Amato</p> <p>2 to check -- do you want to take a</p> <p>3 break or not?</p> <p>4 MR. SCHLICHTMANN: Yes,</p> <p>5 let's take a break, then for five</p> <p>6 minutes. It's been a while. Let's</p> <p>7 do it. We will get into the habit</p> <p>8 of taking these breaks. I think</p> <p>9 it's good.</p> <p>10 THE VIDEOGRAPHER: Going off</p> <p>11 video record. The time is 11:11</p> <p>12 a.m.</p> <p>13 (Whereupon, a recess was</p> <p>14 taken at this time.)</p> <p>15 THE VIDEOGRAPHER: Going</p> <p>16 back on the video record. The time</p> <p>17 is now 11:21 a.m.</p> <p>18 BY MR. SCHLICHTMANN:</p> <p>19 Q. Mr. Amato, before we talked about</p> <p>20 membership in FINRA; is that correct? Do you</p> <p>21 remember that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now, do you understand that</p> <p>24 you have been designated, and Attorney Ward</p> <p>25 will correct me if my understanding is wrong,</p>

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<p style="text-align: right;">Page 69</p> <p>1 Joseph Amato</p> <p>2 that you have been designated as the</p> <p>3 representative of Alexander Capital who can</p> <p>4 speak to issues regarding FINRA?</p> <p>5 Is that your understanding?</p> <p>6 MR. SCHLICHTMANN: And,</p> <p>7 Attorney Ward, if I am wrong about</p> <p>8 that, let me know.</p> <p>9 MR. WARD: We have been, in</p> <p>10 terms of the 30(b)(6) designee?</p> <p>11 MR. SCHLICHTMANN: Yes,</p> <p>12 right.</p> <p>13 MR. WARD: Yeah, that was</p> <p>14 for the person designated by</p> <p>15 Alexander Capital "pursuant to</p> <p>16 30(b)(6) regarding financial</p> <p>17 ability and legal authority of</p> <p>18 Alexander Capital, LP, to undertake</p> <p>19 underwriting, whether characterized</p> <p>20 as best efforts or firm commitments</p> <p>21 during the period 2014, 2016."</p> <p>22 Q. Mr. Amato, were you able to hear</p> <p>23 Attorney Ward, the area that you have been</p> <p>24 designated to speak on behalf of Alexander</p> <p>25 Capital, LP?</p>	<p style="text-align: right;">Page 71</p> <p>1 Joseph Amato</p> <p>2 designation we just read to you, all right?</p> <p>3 A. Okay.</p> <p>4 MR. SCHLICHTMANN: Is that</p> <p>5 okay with you, Attorney Ward?</p> <p>6 MR. WARD: Yes, that is.</p> <p>7 MR. SCHLICHTMANN: Okay,</p> <p>8 great.</p> <p>9 Q. Now, did the membership agreement</p> <p>10 with FINRA that Alexander Capital had in 2013</p> <p>11 through 2015, is it true that that membership</p> <p>12 agreement restricted Alexander Capital from</p> <p>13 engaging in firm commitment offerings?</p> <p>14 A. I am uncertain. I would have to</p> <p>15 see it.</p> <p>16 Q. Okay, but now you are -- okay. Is</p> <p>17 that -- are you -- is it -- is the membership</p> <p>18 agreement readily available to you? Or let</p> <p>19 me ask you this way: Did you look at the</p> <p>20 agreement prior to your testimony today?</p> <p>21 A. I don't believe so.</p> <p>22 Q. Is it readily available to you?</p> <p>23 A. No.</p> <p>24 Q. So let me just stop there.</p> <p>25 MR. SCHLICHTMANN: Attorney</p>
<p style="text-align: right;">Page 70</p> <p>1 Joseph Amato</p> <p>2 A. Yes.</p> <p>3 Q. All right. And do you feel like</p> <p>4 you have knowledge regarding those matters</p> <p>5 that were described by Attorney Ward in the</p> <p>6 -- in his rendition of it?</p> <p>7 A. Sure.</p> <p>8 Q. Okay. Great. Now --</p> <p>9 MR. WARD: Sorry, Jan, I</p> <p>10 just want to be clear of when he</p> <p>11 will be testifying on that -- as</p> <p>12 that position and when he is not.</p> <p>13 MR. SCHLICHTMANN: I'm</p> <p>14 sorry?</p> <p>15 MR. WARD: I just want to</p> <p>16 know that we are clear when he will</p> <p>17 be testifying as that designee and</p> <p>18 when he is testifying in his</p> <p>19 personal capacity.</p> <p>20 MR. SCHLICHTMANN: Okay,</p> <p>21 well, very good.</p> <p>22 Q. So let's now, for this series of</p> <p>23 questions, until I say otherwise, I will be</p> <p>24 asking you a series of questions, in</p> <p>25 accordance with your designation, the</p>	<p style="text-align: right;">Page 72</p> <p>1 Joseph Amato</p> <p>2 Ward, how -- do you have any</p> <p>3 thoughts here about how we might be</p> <p>4 able -- maybe you can give him the</p> <p>5 agreement later during today and we</p> <p>6 can go back to it.</p> <p>7 MR. WARD: Yeah, I guess as</p> <p>8 a preliminary matter, it's okay if</p> <p>9 you call me Bryan. I hope it's</p> <p>10 okay if I call you Jan.</p> <p>11 MR. SCHLICHTMANN: It's all</p> <p>12 right. Just for purposes of the</p> <p>13 record, but that's fine.</p> <p>14 MR. WARD: Are you okay --</p> <p>15 okay.</p> <p>16 MR. SCHLICHTMANN: Sure.</p> <p>17 MR. WARD: And for --</p> <p>18 MR. SCHLICHTMANN: We are</p> <p>19 off the record here, by the way.</p> <p>20 Can we go off the record so we can</p> <p>21 just talk?</p> <p>22 THE VIDEOGRAPHER: Going off</p> <p>23 video record. Time is 11:24 a.m.</p> <p>24 (Whereupon, a recess was</p> <p>25 taken at this time.)</p>

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<p style="text-align: right;">Page 73</p> <p>1 Joseph Amato</p> <p>2 THE VIDEOGRAPHER: Back on</p> <p>3 video record. The time is 11:32</p> <p>4 a.m.</p> <p>5 BY MR. SCHLICHTMANN:</p> <p>6 Q. Okay, Mr. Amato, can you tell us</p> <p>7 whether or not the agreement between</p> <p>8 Alexander Capital, LP and FINRA, whether that</p> <p>9 membership agreement from 2014 through 2016</p> <p>10 had certain restrictions on it?</p> <p>11 A. I believe there may have been</p> <p>12 restrictions. I am not certain.</p> <p>13 Q. All right. Is it your</p> <p>14 understanding that from 2014 through 2016,</p> <p>15 that Alexander Capital membership in FINRA,</p> <p>16 did not allow it to participate as a firm</p> <p>17 commitment underwriter?</p> <p>18 A. As a firm -- participate in firm</p> <p>19 commitments?</p> <p>20 Q. Yes.</p> <p>21 A. Or as a firm commitment</p> <p>22 underwriter? Can you rephrase the question?</p> <p>23 Q. Okay. Is it your understanding</p> <p>24 that from twenty -- is it -- what is your</p> <p>25 understanding, from 2014 through 2016, as to</p>	<p style="text-align: right;">Page 75</p> <p>1 Joseph Amato</p> <p>2 A. So sole underwriter.</p> <p>3 Q. Correct, sole underwriter, okay.</p> <p>4 Could they be part of a firm</p> <p>5 commitment selling group?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. All right. That's your</p> <p>8 understanding. All right. I am going to</p> <p>9 show you...all right. Are you -- let me just</p> <p>10 see if I have this.</p> <p>11 Are you aware of the fact, in 2015,</p> <p>12 that Alexander Capital received a so-called</p> <p>13 unreasonable letter from FINRA, regarding its</p> <p>14 participation in an intended offering by</p> <p>15 Alterix, also known as, Inpellis?</p> <p>16 A. Yes.</p> <p>17 Q. Were you aware of it in -- at the</p> <p>18 time, or is that something you became aware</p> <p>19 of after these events?</p> <p>20 A. I don't recall the exact timing of</p> <p>21 it.</p> <p>22 Q. All right. I am going to show</p> <p>23 you...all right, I am going to show you an</p> <p>24 e-mail that's been marked as Plaintiff's</p> <p>25 Exhibit 142, 1-4-2. It's dated April 10,</p>
<p style="text-align: right;">Page 74</p> <p>1 Joseph Amato</p> <p>2 whether or not the -- Alexander Capital's</p> <p>3 membership in FINRA allowed it to participate</p> <p>4 in firm commitment offerings?</p> <p>5 A. We were allowed to.</p> <p>6 Q. And under what circumstances?</p> <p>7 A. We were allowed to participate</p> <p>8 under any circumstance.</p> <p>9 Q. All right. Is it your</p> <p>10 understanding from 2014 to 2015, that</p> <p>11 Alexander Capital's restrictive agreement</p> <p>12 allowed it to be the sole book running</p> <p>13 manager of a firm commitment offering?</p> <p>14 A. No.</p> <p>15 Q. It did not allow that?</p> <p>16 A. I don't believe we could do firm</p> <p>17 commitment underwriting.</p> <p>18 Q. Okay. So is it your testimony,</p> <p>19 then, to be clear here, it was your</p> <p>20 understanding from -- it's your understanding</p> <p>21 that between 2014 and 2016, Alexander Capital</p> <p>22 was not allowed to conduct firm commitment</p> <p>23 offerings as an underwriter; is that correct?</p> <p>24 A. As the lead underwriter.</p> <p>25 Q. Right. So --</p>	<p style="text-align: right;">Page 76</p> <p>1 Joseph Amato</p> <p>2 2015, and it's from Mr. Kleinman at Greenberg</p> <p>3 to Mr. Gazdak, Mr. Mooney at Alexander</p> <p>4 Capital, and Mr. Carlin. Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. And with a cc to Mr. Marsico at</p> <p>7 Greenberg. Do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Do you know who Mr. Marsico --</p> <p>10 Attorney Marsico is at Greenberg Traurig?</p> <p>11 A. I do not.</p> <p>12 Q. Do you know the firm Greenberg</p> <p>13 Traurig?</p> <p>14 A. I have heard the name, yes.</p> <p>15 Q. Were you aware, in 2015, that</p> <p>16 Alexander Capital was represented by</p> <p>17 Greenberg Traurig, the law firm, regarding</p> <p>18 Alexander Capital's intended -- or Alexander</p> <p>19 Capital's involvement with an offering --</p> <p>20 intended offering by Alterix, Inc., also</p> <p>21 known as, Inpellis, Inc.?</p> <p>22 Were you ware of that in 2015?</p> <p>23 A. No, I was made aware through the</p> <p>24 prep for this trial.</p> <p>25 Q. But you didn't know it beforehand?</p>

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<p style="text-align: right;">Page 77</p> <p>1 Joseph Amato</p> <p>2 A. No, not off the top of my head, no.</p> <p>3 Q. This is an e-mail, April 10, 2015,</p> <p>4 in which Mr. -- lawyers from Greenberg</p> <p>5 Traurig are letting -- are providing a copy</p> <p>6 of the FINRA filing that was made on April</p> <p>7 10, 2015, regarding the intended fee that</p> <p>8 Alexander Capital intended to charge for its</p> <p>9 participation in the intended offering by</p> <p>10 Alterix and Inpellis, Inc., all right? I</p> <p>11 represent to you that that's what this is,</p> <p>12 and are you familiar with the fact that</p> <p>13 Alexander Capital, LP, had any kind of</p> <p>14 obligation, in 2015, that if it was</p> <p>15 participating in an offering, that it had to</p> <p>16 -- after a filing was made, to -- regarding</p> <p>17 the offering, that it had to notify FINRA of</p> <p>18 any fees it intended to charge for its</p> <p>19 participation in such an offering? Were you</p> <p>20 aware of that?</p> <p>21 A. I was not, no.</p> <p>22 Q. Are you aware now that there's such</p> <p>23 a requirement?</p> <p>24 A. Yes.</p> <p>25 Q. All right. But you weren't aware</p>	<p style="text-align: right;">Page 79</p> <p>1 Joseph Amato</p> <p>2 Q. In your designated role, is it true</p> <p>3 that Alexander Capital was aware that FINRA</p> <p>4 responded to the application with a letter,</p> <p>5 dated May 15, 2015, which was referred to by</p> <p>6 Alexander Capital people as an "unreasonable</p> <p>7 letter"? Is that true?</p> <p>8 A. Alexander was aware.</p> <p>9 Q. Yeah. All right. Were you</p> <p>10 personally aware?</p> <p>11 A. No. At the time?</p> <p>12 Q. Yes.</p> <p>13 A. The day of, no. I don't recall</p> <p>14 when I was.</p> <p>15 Q. How about the weeks or months</p> <p>16 after, any time?</p> <p>17 A. I don't recall the exact timing of</p> <p>18 when I was aware, but I know the day of, I</p> <p>19 was not.</p> <p>20 Q. I am going to show you what has</p> <p>21 previously been marked -- hopefully it's on</p> <p>22 your screen.</p> <p>23 Do you see the --</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Now this is a letter from</p>
<p style="text-align: right;">Page 78</p> <p>1 Joseph Amato</p> <p>2 that there was a requirement, then?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. I will represent --</p> <p>5 MR. WARD: Just so the</p> <p>6 record is clear, Jan, when you say</p> <p>7 "you," this is Mr. Amato not as a</p> <p>8 -- you are not referring to</p> <p>9 Alexander Capital as a whole,</p> <p>10 correct?</p> <p>11 MR. SCHLICHTMANN: Okay, so</p> <p>12 thank you for -- so maybe I have to</p> <p>13 -- let me ask it, then.</p> <p>14 Q. Regarding Alexander Capital as a</p> <p>15 whole, all right, were you -- was Alexander</p> <p>16 Capital aware that they had to file with</p> <p>17 FINRA, approval -- review of their intended</p> <p>18 fee and seek FINRA's approval for the</p> <p>19 reasonableness of the fee?</p> <p>20 Was Alexander Capital aware of</p> <p>21 that, at the time, to your knowledge?</p> <p>22 A. Yes, they were.</p> <p>23 Q. Okay. All right. Great.</p> <p>24 MR. SCHLICHTMANN: Thank</p> <p>25 you, Bryan, for that.</p>	<p style="text-align: right;">Page 80</p> <p>1 Joseph Amato</p> <p>2 FINRA, dated May 15, 2015, and this is the</p> <p>3 so-called "unreasonable letter." You see</p> <p>4 it's right there, "re: Unreasonable letter"?</p> <p>5 Do you see that?</p> <p>6 A. Sure.</p> <p>7 Q. Okay. And as designee, you have</p> <p>8 testified that Alexander Capital received it</p> <p>9 soon after it was received by Alexander</p> <p>10 Capital's counsel; is that correct?</p> <p>11 A. That's my understanding.</p> <p>12 Q. All right. Now, as for you,</p> <p>13 yourself personally, in looking at this</p> <p>14 letter, does this refresh your recollection</p> <p>15 at all as to when you first saw this</p> <p>16 unreasonable letter dated May 15, 2015?</p> <p>17 A. I don't know the exact date, no.</p> <p>18 Q. Do you have any memory of seeing it</p> <p>19 in 2015 at any time?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you have any memory of</p> <p>22 discussing it with anybody at Alexander</p> <p>23 Capital, in 2015?</p> <p>24 A. I don't recall the timing.</p> <p>25 Q. Okay. Was Alexander Capital aware,</p>

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<p style="text-align: right;">Page 81</p> <p>1 Joseph Amato</p> <p>2 as indicated in this letter, where it states</p> <p>3 in -- now I am asking you as the designated</p> <p>4 person. This is page two, under six it says,</p> <p>5 "In connection with the filing received for</p> <p>6 Alexander Capital, LP, the sole book running</p> <p>7 manager identified in the offering documents,</p> <p>8 the department suggests that the firm contact</p> <p>9 their district office to discuss their</p> <p>10 participation in this offering and obtain</p> <p>11 approval to underwrite this offering on a</p> <p>12 firm commitment basis."</p> <p>13 Do you see that?</p> <p>14 A. I do see that.</p> <p>15 Q. As designated officer, is it true</p> <p>16 that Alexander Capital, through this</p> <p>17 unreasonable letter, was informed by FINRA</p> <p>18 that it did not have approval to underwrite</p> <p>19 this offering on a firm -- Alterix offering</p> <p>20 on a firm commitment basis?</p> <p>21 A. I believe the firm went for</p> <p>22 approval with this.</p> <p>23 Q. Because they were informed -- they</p> <p>24 went for approval because they were informed</p> <p>25 that they did not have the approval for such</p>	<p style="text-align: right;">Page 83</p> <p>1 Joseph Amato</p> <p>2 understanding that the reason why approval</p> <p>3 had to be obtained is because Alexander</p> <p>4 Capital, as of the receipt of this letter of</p> <p>5 May 15, 2015, did not have the authority</p> <p>6 under its membership agreement to undertake a</p> <p>7 firm commitment offering?</p> <p>8 A. Well, we did -- we did work with</p> <p>9 firm commitment offers, but -- so we</p> <p>10 contacted at the time, and that's the</p> <p>11 approval we were going for, to underwrite it.</p> <p>12 Q. Right, but I am asking to be the</p> <p>13 underwriter of a firm commitment offering,</p> <p>14 that it was Alexander Capital -- and I am</p> <p>15 asking you now as a designated official.</p> <p>16 A. Right.</p> <p>17 Q. That Alexander Capital knew at the</p> <p>18 time that it received this letter on May 15,</p> <p>19 2015, that it did not have, under its</p> <p>20 membership agreement, the authority to</p> <p>21 underwrite a firm commitment offering; is</p> <p>22 that correct?</p> <p>23 A. Yes, could not underwrite at this</p> <p>24 current time without obtaining...</p> <p>25 Q. Okay. All right. Now, were you</p>
<p style="text-align: right;">Page 82</p> <p>1 Joseph Amato</p> <p>2 an authority; is that correct?</p> <p>3 A. No, because we were asked -- it</p> <p>4 suggested that we contact them and I believe</p> <p>5 that's what prompted the firm to contact.</p> <p>6 Q. To obtain approval?</p> <p>7 A. We -- we contacted them as it was</p> <p>8 suggested here, and I believe that's what we</p> <p>9 did as a firm.</p> <p>10 Q. Well, is it -- was it Alexander</p> <p>11 Capital's understanding, and I am asking you</p> <p>12 now as your designated -- in your designated</p> <p>13 role, is it true that Alexander Capital knew,</p> <p>14 at the time that it received this letter,</p> <p>15 that it did not have the authority from FINRA</p> <p>16 to conduct a firm commitment offering, but it</p> <p>17 had to obtain such authority?</p> <p>18 A. I believe -- yes, we had to -- let</p> <p>19 me rephrase. We had to contact to do a firm</p> <p>20 commitment offering. I don't know what -- if</p> <p>21 we were -- what the offering was or how it</p> <p>22 was going to be done, but to underwrite, we</p> <p>23 had to contact our department, and I believe</p> <p>24 we did that for an approval.</p> <p>25 Q. Was it Alexander Capital's</p>	<p style="text-align: right;">Page 84</p> <p>1 Joseph Amato</p> <p>2 aware that FINRA was -- that, in fact,</p> <p>3 Alexander Capital made an application, a</p> <p>4 so-called continuing membership application?</p> <p>5 Were you aware at the time that it was made,</p> <p>6 this continuing -- well, first of all, were</p> <p>7 you aware that, in 2015, Alexander Capital</p> <p>8 made a continuing membership application to</p> <p>9 FINRA?</p> <p>10 A. Yes, I just don't know the exact</p> <p>11 dates, but yes.</p> <p>12 Q. Now, I am asking in your personal</p> <p>13 knowledge.</p> <p>14 Were you aware personally at that</p> <p>15 time frame?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And how did you become aware</p> <p>18 of it?</p> <p>19 A. I don't recall. It's part of the</p> <p>20 process.</p> <p>21 Q. Okay. And what was -- what were</p> <p>22 you made aware of, to the extent you can</p> <p>23 remember?</p> <p>24 A. That we were going to put in other</p> <p>25 -- put in a CMA.</p>

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<p style="text-align: right;">Page 85</p> <p>1 Joseph Amato</p> <p>2 Q. Do you know what a "CMA" is?</p> <p>3 A. Continuing membership application.</p> <p>4 Q. And you understood it then?</p> <p>5 A. Yes.</p> <p>6 Q. And -- okay. All right. I am</p> <p>7 going to show you a document. All right. I</p> <p>8 am going to show you what's been marked as --</p> <p>9 by the way, did I say the exhibit of the last</p> <p>10 one we just did? Did I give the number to</p> <p>11 the stenographer? Did I reference that May</p> <p>12 15th letter? I don't know if I did. The May</p> <p>13 15th letter we just said, I will give you the</p> <p>14 number.</p> <p>15 MR. WARD: 143A.</p> <p>16 MR. SCHLICHTMANN: Thank</p> <p>17 you. Thank you, Bryan. Appreciate</p> <p>18 it.</p> <p>19 MR. WARD: Sure.</p> <p>20 MR. SCHLICHTMANN: You have</p> <p>21 to watch me. I am telling you, I</p> <p>22 have to break this habit before I</p> <p>23 retire.</p> <p>24 Q. All right, Plaintiff's Exhibit 135,</p> <p>25 all right, is now on the screen. Do you see</p>	<p style="text-align: right;">Page 87</p> <p>1 Joseph Amato</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Did you approve that, or</p> <p>4 were you involved in the approval of that</p> <p>5 decision to go for filing an application?</p> <p>6 A. I don't recall how the process came</p> <p>7 about.</p> <p>8 Q. And on Exhibit 135, the continuing</p> <p>9 membership application, it says in page four,</p> <p>10 it states, the -- the -- Alexander Capital's</p> <p>11 making a statement to FINRA regarding its</p> <p>12 application that "Nesa Management seeks to</p> <p>13 purchase an additional 75.1 percent of</p> <p>14 Alexander Capital, LP, the firm, from Exitus</p> <p>15 LLC, resulting in Nesa owning 100 percent of</p> <p>16 Alexander Capital, LP."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Was it your understanding, at the</p> <p>20 time, that Alexander Capital had 25. -- 24.9</p> <p>21 percent, and that Nesa -- and that Exitus had</p> <p>22 75.1 percent ownership of Alexander Capital?</p> <p>23 Was that your understanding at the</p> <p>24 time?</p> <p>25 A. I believe so. I'm...</p>
<p style="text-align: right;">Page 86</p> <p>1 Joseph Amato</p> <p>2 that, Mr. Amato?</p> <p>3 A. I do.</p> <p>4 Q. Okay. This is a continuing member</p> <p>5 application. Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Do you recognize this format as</p> <p>8 something you are familiar with? A</p> <p>9 continuing membership application form, you</p> <p>10 are familiar with?</p> <p>11 A. No.</p> <p>12 Q. Okay. Do you remember seeing this</p> <p>13 continuing membership application at the time</p> <p>14 it was made in June 3 of 2015?</p> <p>15 A. No.</p> <p>16 Q. But you were made aware that an</p> <p>17 application was being made?</p> <p>18 A. Correct.</p> <p>19 Q. And did you know what -- who was</p> <p>20 making the application?</p> <p>21 A. I believe it was our attorney at</p> <p>22 the time.</p> <p>23 Q. And was -- were you aware that --</p> <p>24 of the -- the firm that was doing it was the</p> <p>25 Sichenzia Ross firm?</p>	<p style="text-align: right;">Page 88</p> <p>1 Joseph Amato</p> <p>2 Q. Was it your understanding that Nesa</p> <p>3 Management, LLC, wished to purchase, from</p> <p>4 Exitus, its 75.1 percent ownership share, as</p> <p>5 indicated in this statement?</p> <p>6 A. Yes.</p> <p>7 Q. It then in the statement says,</p> <p>8 further on, the -- right here. I will</p> <p>9 highlight it in yellow. "The firm intends to</p> <p>10 develop investment banking as a major</p> <p>11 business line and will devote substantial</p> <p>12 resources towards that end. In that regard,</p> <p>13 the firm is requesting that it be permitted</p> <p>14 by its restrictive agreement to act as</p> <p>15 managing underwriter and selling group member</p> <p>16 in firm commitment underwritings." Do you</p> <p>17 see that?</p> <p>18 A. I do.</p> <p>19 Q. And is that consistent now as -- I</p> <p>20 am asking now as designee of Alexander</p> <p>21 Capital. Is it true, as of that time, that</p> <p>22 the restrictive agreement of Alexander</p> <p>23 Capital did not allow it to act as managing</p> <p>24 underwriter of a firm commitment</p> <p>25 underwriting; is that correct?</p>

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<p style="text-align: right;">Page 89</p> <p>1 Joseph Amato</p> <p>2 A. I don't know if we were restricted.</p> <p>3 I don't know if we were granted.</p> <p>4 Q. No, I'm asking you as the designee.</p> <p>5 A. Correct. So I don't believe we had</p> <p>6 a restriction on the broker-dealer. I don't</p> <p>7 believe we had approval.</p> <p>8 Q. Okay. Well, if you don't have the</p> <p>9 approval, was it Alexander Capital -- now I</p> <p>10 am asking as designee. Was it true that if</p> <p>11 Alexander Capital didn't have the approval,</p> <p>12 then, it was restricted from engaging in that</p> <p>13 activity; namely, firm commitment</p> <p>14 underwriting?</p> <p>15 A. Approvals and restrictions are two</p> <p>16 different, I would say.</p> <p>17 Q. Okay, but if your -- was it</p> <p>18 Alexander -- again, I am asking as designee.</p> <p>19 A. Sure.</p> <p>20 Q. Was it Alexander Capital's</p> <p>21 understanding that if it did not have the</p> <p>22 approval of FINRA to be the managing</p> <p>23 underwriter in a firm commitment</p> <p>24 underwriting, okay, if it didn't have such</p> <p>25 approval, that it was, therefore, restricted</p>	<p style="text-align: right;">Page 91</p> <p>1 Joseph Amato</p> <p>2 Q. Okay, but now participate as the</p> <p>3 managing underwriter?</p> <p>4 A. No, you asked "participate." So I</p> <p>5 answered as participate.</p> <p>6 Q. Okay, I am asking: Participate as</p> <p>7 managing underwriter?</p> <p>8 A. No, we couldn't.</p> <p>9 Q. Participate in the selling group?</p> <p>10 A. We could participate in the seller</p> <p>11 group, was our understanding at the time.</p> <p>12 Q. Okay. Now, did that understanding</p> <p>13 change? And I am asking, again, as designee.</p> <p>14 A. Yes.</p> <p>15 Q. In what way did that change?</p> <p>16 A. We applied for -- to be the</p> <p>17 underwriter at this point, based upon the</p> <p>18 letter.</p> <p>19 Q. No, no, my question is: You --</p> <p>20 your understanding was you could participate</p> <p>21 as a member of a selling group, regarding a</p> <p>22 firm commitment offering; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. All right. Did your -- that</p> <p>25 understanding change? In other words, were</p>
<p style="text-align: right;">Page 90</p> <p>1 Joseph Amato</p> <p>2 from engaging in that activity, unless it had</p> <p>3 the approval of FINRA to do so? Is that</p> <p>4 correct?</p> <p>5 A. I would say FINRA wouldn't approve</p> <p>6 us to underwrite it, at the time.</p> <p>7 Q. Okay. Was it not Alexander</p> <p>8 Capital -- then, is it true, then, Alexander</p> <p>9 Capital did not understand -- and I am asking</p> <p>10 again as designee.</p> <p>11 Did Alexander Capital -- was it</p> <p>12 Alexander Capital's understanding, in 2015,</p> <p>13 that it was not restricted from engaging in</p> <p>14 firm commitment offerings, only that it</p> <p>15 didn't have the approval, or because it</p> <p>16 didn't have the approval, it was restricted?</p> <p>17 Which of those fairly characterizes Alexander</p> <p>18 Capital's understanding at that time?</p> <p>19 A. As you stated, we only could</p> <p>20 participate in firm commitment underwriting.</p> <p>21 Q. When you say, "participate," in</p> <p>22 what form did Alexander Capital believe it</p> <p>23 could participate?</p> <p>24 A. Participate in investment selling</p> <p>25 group.</p>	<p style="text-align: right;">Page 92</p> <p>1 Joseph Amato</p> <p>2 you -- was Alexander Capital -- again, I am</p> <p>3 asking as designee -- were they later</p> <p>4 corrected by anyone, regulatory authority or</p> <p>5 otherwise, that they couldn't participate as</p> <p>6 a selling group member of a firm commitment</p> <p>7 offering?</p> <p>8 A. Yes. I don't recall when that was.</p> <p>9 Q. But at some point they -- Alexander</p> <p>10 Capital learned that they could not be a</p> <p>11 selling group member of a firm committing</p> <p>12 offering; is that correct?</p> <p>13 A. At some point, yes.</p> <p>14 Q. Okay. All right. Now, it states</p> <p>15 later on in here that "The firm understands"</p> <p>16 -- it says here -- I will highlight it in</p> <p>17 yellow.</p> <p>18 It says, "To satisfy the net</p> <p>19 capital" -- "to satisfy the net capital</p> <p>20 requirements and to fund firm commitment</p> <p>21 underwritings, the firm may employ temporary</p> <p>22 subordinated loans and/or subordinated loans,</p> <p>23 and has identified potential lenders for this</p> <p>24 purpose." And then it goes on to say that,</p> <p>25 "The firm understands it can employ temporary</p>

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<p style="text-align: right;">Page 93</p> <p>1 Joseph Amato</p> <p>2 subordinated loans only three times per year</p> <p>3 for purposes of satisfying net capital</p> <p>4 requirements for firm commitment</p> <p>5 underwritings," and then further -- did you</p> <p>6 see that, what I just read?</p> <p>7 A. I do.</p> <p>8 Q. All right. Did -- now I am asking</p> <p>9 you personally. Did you understand that</p> <p>10 there were certain net capital requirements</p> <p>11 for Alexander Capital to meet in order to</p> <p>12 qualify to do under -- firm commitment</p> <p>13 underwriting?</p> <p>14 A. Yes.</p> <p>15 Q. And I am now asking you as</p> <p>16 designee.</p> <p>17 Was it Alexander Capital's</p> <p>18 understanding, in 2015, that it had to</p> <p>19 satisfy certain net capital requirements, in</p> <p>20 order to qualify for firm commitment</p> <p>21 underwritings?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And as of 2015, what was</p> <p>24 your understanding of the net capital</p> <p>25 requirements that Alexander Capital had to</p>	<p style="text-align: right;">Page 95</p> <p>1 Joseph Amato</p> <p>2 A. It's just a qualification level you</p> <p>3 need to keep on as an excess net capital.</p> <p>4 Q. Okay. And as a nickel</p> <p>5 broker-dealer, was it your understanding that</p> <p>6 a nickle broker-dealer was not authorized to</p> <p>7 conduct a firm commitment offering?</p> <p>8 A. Correct, you cannot.</p> <p>9 Q. Now, it says here, "Additionally,</p> <p>10 the current equity holders of the firm, as</p> <p>11 well as Messrs. Guidici Pietro, Amato, O'</p> <p>12 Brian, Carlin, Gazdak, and Feinman, have the</p> <p>13 capital and have agreed to make additional</p> <p>14 capital contributions in the future if</p> <p>15 necessary." Do you see that?</p> <p>16 A. Oh, sure.</p> <p>17 Q. To your knowledge, in 2015, was</p> <p>18 there an agreement between Mr. Guidici Pietro,</p> <p>19 yourself, Mr. O'Brian, Mr. Carlin, Mr.</p> <p>20 Gazdak, and Mr. Feinman, that -- that they</p> <p>21 agreed to make additional capital</p> <p>22 contributions in order to qualify for firm</p> <p>23 commitment offerings?</p> <p>24 A. We could have done so if needed.</p> <p>25 Q. Yes, but I am asking specifically,</p>
<p style="text-align: right;">Page 94</p> <p>1 Joseph Amato</p> <p>2 meet for its underwriting?</p> <p>3 A. It would vary.</p> <p>4 Q. Okay. In what way?</p> <p>5 A. Depending on the deal, the size of</p> <p>6 the deal.</p> <p>7 Q. Right. But, now, was it your</p> <p>8 understanding -- I am asking you personally,</p> <p>9 that the -- that -- whether the net capital</p> <p>10 requirements for a firm commitment offering</p> <p>11 were different than the net capital</p> <p>12 requirements for a best efforts offering?</p> <p>13 A. Not necessarily.</p> <p>14 Q. Was it your understanding -- and</p> <p>15 now I am asking you personally. Yesterday,</p> <p>16 Mr. Guidici Pietro said that Alexander Capital</p> <p>17 -- he used the phrase -- was a "nickel</p> <p>18 broker."</p> <p>19 A. Nickel broker-dealer.</p> <p>20 Q. That's right, okay. And are you</p> <p>21 familiar with the term, colloquial</p> <p>22 expression, "nickel broker-dealer?"</p> <p>23 A. I am.</p> <p>24 Q. What does it mean? What was your</p> <p>25 understanding, as of 2014, 2015?</p>	<p style="text-align: right;">Page 96</p> <p>1 Joseph Amato</p> <p>2 were you aware that there was such an</p> <p>3 agreement?</p> <p>4 MR. WARD: Objection.</p> <p>5 Ambiguous.</p> <p>6 MR. SCHLICHTMANN: All</p> <p>7 right, I withdraw the question.</p> <p>8 Q. What I am asking specifically is:</p> <p>9 To your knowledge, in 2015, all right, was</p> <p>10 there an agreement of any kind between Mr.</p> <p>11 Guidici Pietro, yourself, Mr. O' Brian, Mr.</p> <p>12 Carlin, Mr. Gazdak and Mr. Feinman, about</p> <p>13 making capital contributions to Alexander</p> <p>14 Capital, LP, regarding a firm commitment</p> <p>15 offering?</p> <p>16 A. We could have made contributions,</p> <p>17 if necessary.</p> <p>18 Q. Yes, but I am asking specifically:</p> <p>19 Was there an agreement between -- were you</p> <p>20 aware of an agreement among yourself and the</p> <p>21 others listed, or you have no memory of an</p> <p>22 agreement?</p> <p>23 A. We were able and discussed putting</p> <p>24 capital up.</p> <p>25 Q. You do remember having a discussion</p>

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<p style="text-align: right;">Page 97</p> <p>1 Joseph Amato</p> <p>2 with these gentlemen?</p> <p>3 A. Not necessarily all. I may have.</p> <p>4 But, yes, we had an agreement that we would</p> <p>5 put capital up if necessary.</p> <p>6 Q. And, okay, when you say, "we," who</p> <p>7 is included in the "we," to your memory?</p> <p>8 A. I -- I don't recall, exactly, who I</p> <p>9 spoke to at the time, but it is a true</p> <p>10 statement that we had the ability to put the</p> <p>11 capital up if necessary.</p> <p>12 Q. And you say, "we." Who -- who's</p> <p>13 the "we" you're referring to?</p> <p>14 A. Myself, Mr. Guidici Pietro, Mr.</p> <p>15 O'Brian, Mr. Carlin, Mr. Gazdak, and Mr.</p> <p>16 Feinman.</p> <p>17 Q. Okay. And...now, all right. Now I</p> <p>18 am going to show you a document that's been</p> <p>19 marked Plaintiff's Exhibit 127. It's a</p> <p>20 black-and-white copy, with a FINRA letterhead</p> <p>21 at the top. Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. And it's dated June 11, 2015. Do</p> <p>24 you see that?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">Page 99</p> <p>1 Joseph Amato</p> <p>2 A. I am not aware of what -- the date</p> <p>3 we knew.</p> <p>4 Q. The company?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And I am showing you this</p> <p>7 letter from FINRA dated June 11, 2015, and I</p> <p>8 showed you the -- which is Exhibit 127, and I</p> <p>9 showed you the previous exhibit, the June 3,</p> <p>10 2015, application.</p> <p>11 Is the fact that this letter is</p> <p>12 dated to Mr. Carmel at Sichenzia, on June 11,</p> <p>13 2015, does that help you, as the designee of</p> <p>14 Alexander Capital, that Alexander Capital did</p> <p>15 know that a letter from FINRA was issued on</p> <p>16 -- date June 11, 2015, regarding its</p> <p>17 application or soon thereafter its receipt?</p> <p>18 A. Soon thereafter, yes. I don't know</p> <p>19 the date we actually received it, is what I</p> <p>20 am saying.</p> <p>21 Q. Okay, all right. You don't have</p> <p>22 personal knowledge or memory of that; is that</p> <p>23 correct, receipt of such a letter?</p> <p>24 A. Correct.</p> <p>25 Q. All right. As you sit here today,</p>
<p style="text-align: right;">Page 98</p> <p>1 Joseph Amato</p> <p>2 Q. And it's a FINRA letter to Mr.</p> <p>3 Carmel at Sichenzia, Ross, Freidman and</p> <p>4 Ference, concerning the continuing membership</p> <p>5 application of Alexander Capital. Do you see</p> <p>6 that?</p> <p>7 A. I do.</p> <p>8 Q. Now I am asking you personally.</p> <p>9 Were you aware, in 2015, that FINRA issued a</p> <p>10 letter response to the CMA, the continuing</p> <p>11 membership application that we just went</p> <p>12 over?</p> <p>13 Were you aware of that in 2015?</p> <p>14 A. I don't recall the timing.</p> <p>15 Q. All right. As designee of</p> <p>16 Alexander Capital, did Alexander Capital know</p> <p>17 that there was a letter issued by FINRA dated</p> <p>18 June 11, 2015, in response to its June 3,</p> <p>19 2015, continuing membership application to</p> <p>20 FINRA?</p> <p>21 A. I don't recall the date I was</p> <p>22 aware, no.</p> <p>23 Q. No, I am not asking you personally</p> <p>24 now. I am asking you as the designee of</p> <p>25 Alexander Capital.</p>	<p style="text-align: right;">Page 100</p> <p>1 Joseph Amato</p> <p>2 did you become aware that on June 11, 2015,</p> <p>3 FINRA issued a letter in response to the June</p> <p>4 3, 2015, application?</p> <p>5 A. Yes.</p> <p>6 Q. And is that something you recently</p> <p>7 became aware of?</p> <p>8 A. No.</p> <p>9 Q. When do you think you first became</p> <p>10 aware that FINRA issued a June 11, 2015,</p> <p>11 letter, in response to the June 3, 2015,</p> <p>12 application to FINRA?</p> <p>13 A. Sometime, approximately, when the</p> <p>14 firm received it in short term, I would</p> <p>15 believe.</p> <p>16 Q. Okay. Do you remember reading the</p> <p>17 letter?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you remember having someone</p> <p>20 discuss the letter with you?</p> <p>21 A. Yes.</p> <p>22 Q. Now, I am not asking for</p> <p>23 attorney-client privileged communications at</p> <p>24 all. Please understand that. At no time am</p> <p>25 I asking for those.</p>

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<p style="text-align: right;">Page 101</p> <p>1 Joseph Amato</p> <p>2 Did you have any discussions with</p> <p>3 someone other -- you know, I will not say</p> <p>4 even that.</p> <p>5 I will just say: Did you have</p> <p>6 anyone -- any discussions with someone about</p> <p>7 the letter, and I am not asking for any</p> <p>8 attorney-client communications or</p> <p>9 discussions, okay?</p> <p>10 A. So, then, I can't answer.</p> <p>11 Q. Okay, fine. Thank you.</p> <p>12 Now, in this letter, it talks about</p> <p>13 the membership application for ownership</p> <p>14 change to engage in firm commitment</p> <p>15 underwriting, and to increase its statutory</p> <p>16 net capital requirements to 100,000. Do you</p> <p>17 see all that? It's all listed there, the</p> <p>18 different requests.</p> <p>19 A. I do.</p> <p>20 Q. Okay. Now, it says in the second</p> <p>21 paragraph, "While NASD Rule 1017" -- and let</p> <p>22 me just ask you: Were you personally aware</p> <p>23 of the NASD Rule 1017, or the FINRA Rule</p> <p>24 1017, regarding continuing membership</p> <p>25 applications, that they are commonly referred</p>	<p style="text-align: right;">Page 103</p> <p>1 Joseph Amato</p> <p>2 Q. Okay. Were you personally aware</p> <p>3 that -- that the -- in their letter, FINRA</p> <p>4 was placing restrictions on what Alexander</p> <p>5 Capital could and could not do in response to</p> <p>6 the application of June 3, 2015?</p> <p>7 A. Yes.</p> <p>8 Q. And were you aware of the fact that</p> <p>9 the firm was -- one of the restrictions was,</p> <p>10 the firm is prohibited -- was prohibited from</p> <p>11 effecting any additional changes in ownership</p> <p>12 until they were told they could?</p> <p>13 A. Correct.</p> <p>14 Q. It says, "Number 2, the firm is</p> <p>15 prohibited from making any changes or</p> <p>16 expansions to its business activities." Do</p> <p>17 you see that?</p> <p>18 A. I do.</p> <p>19 Q. Were you aware, you personally,</p> <p>20 were you aware that in their letter of June</p> <p>21 11, 2015, in response to the 20 -- to the</p> <p>22 June 3, 2015, continuing membership</p> <p>23 application, that the firm was prohibited by</p> <p>24 FINRA from making any changes in its business</p> <p>25 activities?</p>
<p style="text-align: right;">Page 102</p> <p>1 Joseph Amato</p> <p>2 to as a 1017 application?</p> <p>3 Was that -- did you know that</p> <p>4 personally, in 2015?</p> <p>5 A. I don't recall when, but I do know</p> <p>6 it now.</p> <p>7 Q. All right. This says, "While NASD</p> <p>8 Rule 1017C1 provides that a member may effect</p> <p>9 a change in ownership or control prior to the</p> <p>10 conclusion of the proceeding, the rule also</p> <p>11 specifies that the staff may place interim</p> <p>12 restrictions on the member based upon the</p> <p>13 standards and NASD Rule 1014 pending final</p> <p>14 action. Therefore, the staff hereby imposes</p> <p>15 the following interim restrictions pursuant</p> <p>16 to Rule 1017C." Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. "Number 1, the firm is</p> <p>19 prohibited from effecting any portion of the</p> <p>20 aforementioned ownership change. The firm is</p> <p>21 also prohibited from effecting any additional</p> <p>22 changes in ownership, regardless of</p> <p>23 percentage amount."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 104</p> <p>1 Joseph Amato</p> <p>2 A. For the process of the CMA. During</p> <p>3 the process, correct.</p> <p>4 Q. During the process, correct.</p> <p>5 You were personally aware of that?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And now I am asking you as</p> <p>8 designee.</p> <p>9 Was Alexander Capital, LP, aware of</p> <p>10 the fact that in -- by letter of June 11,</p> <p>11 2015, the -- FINRA was prohibiting the firm</p> <p>12 from making any changes to its business</p> <p>13 activities while its application was pending,</p> <p>14 regarding changing its authority to engage in</p> <p>15 firm commitment underwritings?</p> <p>16 A. From my understanding, we had to</p> <p>17 wait for final approval.</p> <p>18 Q. And were prohibited and it was --</p> <p>19 now you say your understanding. I am asking</p> <p>20 now as designee.</p> <p>21 A. Correct.</p> <p>22 Q. Was it Alexander Capital's</p> <p>23 understanding that it could not engage in</p> <p>24 firm commitment underwriting activities,</p> <p>25 pending its application for approval to</p>

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<p style="text-align: right;">Page 105</p> <p>1 Joseph Amato</p> <p>2 engage in firm commitment underwritings?</p> <p>3 A. Yes.</p> <p>4 Q. Now I am asking you personally. To</p> <p>5 your knowledge, did Alexander Capital, okay,</p> <p>6 did Alexander Capital's management, all</p> <p>7 right, at any time, take any steps to inform</p> <p>8 people working for Alexander Capital on</p> <p>9 offerings that it was participating in or</p> <p>10 intended to participate, about the</p> <p>11 restrictions that FINRA had imposed on the</p> <p>12 company?</p> <p>13 A. I don't recall on the timing.</p> <p>14 Q. All right. Are you aware -- now I</p> <p>15 am asking you personally. Are you aware of</p> <p>16 any steps that the company took to inform</p> <p>17 people who worked at Alexander Capital, and</p> <p>18 whose job would have them participate in</p> <p>19 potential underwritings that Alexander</p> <p>20 Capital was participating in, were there any</p> <p>21 steps to inform them of the FINRA</p> <p>22 restrictions we've just gone over?</p> <p>23 A. I don't recall if we had, no.</p> <p>24 Q. Did you take any steps?</p> <p>25 A. No, I don't recall.</p>	<p style="text-align: right;">Page 107</p> <p>1 Joseph Amato</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. Based on your understanding of the</p> <p>5 practices and procedures in place at</p> <p>6 Alexander Capital, LP, as of 2015, what was</p> <p>7 your understanding as to whether or not the</p> <p>8 firm would, as a matter of course, inform</p> <p>9 people at Alexander Capital of these</p> <p>10 restrictions that are in this June 11, 2015,</p> <p>11 letter?</p> <p>12 A. Can you repeat that question?</p> <p>13 Q. Yes. Based on your understanding</p> <p>14 of -- let me ask you this way: Were you</p> <p>15 aware of any practices or procedures in place</p> <p>16 at Alexander Capital, in 2015, that would</p> <p>17 have required the people -- required that</p> <p>18 people involved in any offering that</p> <p>19 Alexander Capital intended to participate in,</p> <p>20 to be made aware of these restrictions we</p> <p>21 just went over?</p> <p>22 A. I'm uncertain.</p> <p>23 Q. You're not aware of any?</p> <p>24 A. I'm uncertain.</p> <p>25 Q. Okay, when you say, "uncertain,"</p>
<p style="text-align: right;">Page 106</p> <p>1 Joseph Amato</p> <p>2 Q. Did -- are you aware -- does</p> <p>3 Mr. Guidici Pietro take any steps?</p> <p>4 A. You would have to ask him.</p> <p>5 Q. All right. You're not aware of</p> <p>6 any?</p> <p>7 A. I am not aware.</p> <p>8 Q. How about Mr. Feinman, the CEO, are</p> <p>9 you aware of him taking any steps?</p> <p>10 A. I don't know.</p> <p>11 Q. Are you aware of Mr. Stack taking</p> <p>12 any steps?</p> <p>13 A. I don't know who informed. I do</p> <p>14 not know.</p> <p>15 Q. Okay, I am asking specifically as</p> <p>16 to these people. So you don't know whether</p> <p>17 Mr. Feinman did, correct?</p> <p>18 A. Correct.</p> <p>19 Q. You don't know if Mr. Stack did,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. You don't know if Mr. Gazdak did,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. You don't know if Mr. Carlin did,</p>	<p style="text-align: right;">Page 108</p> <p>1 Joseph Amato</p> <p>2 does that mean you are aware or not aware of</p> <p>3 any such practices or procedures?</p> <p>4 A. I am unaware. I don't know.</p> <p>5 Q. I am asking you personally now.</p> <p>6 Mr. Amato, are you aware as to</p> <p>7 whether or not Alexander Capital, LP, during</p> <p>8 2015, had any involvement in any offerings in</p> <p>9 which it intended to be the underwriter on a</p> <p>10 firm commitment basis, in 2015?</p> <p>11 A. I don't recall.</p> <p>12 Q. As you sit here today, do you have</p> <p>13 any reason to believe that Alexander Capital,</p> <p>14 in 2015, was involved in any offerings in</p> <p>15 which it intended to be the underwriter on a</p> <p>16 firm commitment basis?</p> <p>17 A. I don't recall the dates, no.</p> <p>18 Q. All right. So even as you sit here</p> <p>19 today?</p> <p>20 A. I don't recall the exact dates, no.</p> <p>21 Q. All right. Do you recall any -- do</p> <p>22 you have any recollection as to whether or</p> <p>23 not, in 2015, as you sit here -- let me ask</p> <p>24 you this way: Are you aware of anything, as</p> <p>25 of today, regarding whether or not Alexander</p>

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<p style="text-align: right;">Page 109</p> <p>1 Joseph Amato</p> <p>2 Capital, in 2015, was involved in an offering</p> <p>3 where it intended to be the underwriter on a</p> <p>4 firm commitment basis?</p> <p>5 A. I don't recall the exact dates.</p> <p>6 Q. Of when you became aware of that?</p> <p>7 A. I don't recall the dates of -- or</p> <p>8 the deals. I don't recall if there were any</p> <p>9 or there weren't any.</p> <p>10 Q. All right. You are -- in 2015,</p> <p>11 were you aware of the Alterix/Inpellis</p> <p>12 offering that Alexander Capital was intending</p> <p>13 to be the underwriter in?</p> <p>14 A. I don't recall the date.</p> <p>15 Q. Well, do you have any memory, in</p> <p>16 2015, being made aware or becoming aware,</p> <p>17 personally, of the Alterix, also known as,</p> <p>18 Inpellis, offering that Alexander Capital was</p> <p>19 intending to be the underwriter in?</p> <p>20 A. I know why we're here. I don't</p> <p>21 remember the date, the exact date.</p> <p>22 Q. I understand the exact date. But I</p> <p>23 am asking in general, do you have any memory,</p> <p>24 in 2015, of becoming aware of it?</p> <p>25 A. I -- I don't recall.</p>	<p style="text-align: right;">Page 111</p> <p>1 Joseph Amato</p> <p>2 Alterix/Inpellis offering; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. What's your understanding of</p> <p>5 the Alterix/Inpellis offering, as to whether</p> <p>6 or not it involved Alexander Capital's</p> <p>7 intention to be the firm commitment</p> <p>8 underwriter of that offering?</p> <p>9 A. It was proposed.</p> <p>10 Q. Okay. That's your understanding?</p> <p>11 A. Yes.</p> <p>12 Q. And who proposed it?</p> <p>13 A. I believe it was proposed by</p> <p>14 Alexander.</p> <p>15 Q. To be the -- an underwriter on a</p> <p>16 firm commitment basis of the Alterix/Inpellis</p> <p>17 offering; is that what you are saying?</p> <p>18 A. I believe so. I am not 100 percent</p> <p>19 on the date, but yes.</p> <p>20 Q. Now, in light of these restrictions</p> <p>21 that we just went over, as of June 2015, is</p> <p>22 it -- what is your understanding as to</p> <p>23 whether or not Alexander Capital, after</p> <p>24 receipt of that June 11, 2015, letter, could</p> <p>25 or could not continue to participate in</p>
<p style="text-align: right;">Page 110</p> <p>1 Joseph Amato</p> <p>2 Q. How about since 2015?</p> <p>3 A. Don't recall the date today, even,</p> <p>4 for this. The exact date, I don't recall.</p> <p>5 Q. All right. Do you have any memory</p> <p>6 of when you first became aware as to whether</p> <p>7 or not Alexander Capital was involved in</p> <p>8 underwritings in 2015 in which it intended to</p> <p>9 be the underwriter on a firm commitment</p> <p>10 basis, or you have no -- even as you sit here</p> <p>11 today, you have no reason to believe that</p> <p>12 Alexander Capital was involved in any such</p> <p>13 underwriting?</p> <p>14 A. I know we put in an application. I</p> <p>15 don't know the exact dates of the deal, the</p> <p>16 dates. Don't know exactly as we sit this</p> <p>17 second. I don't know the exact date.</p> <p>18 Q. Okay. But you do know that from</p> <p>19 the application and from the FINRA</p> <p>20 application letter we went over, that the --</p> <p>21 that FINRA issued its unreasonable letter</p> <p>22 notifying the company that it had to obtain</p> <p>23 approval, was in reaction to the offering</p> <p>24 that Alexander Capital was involved with that</p> <p>25 had been filed in April of 2015 regarding the</p>	<p style="text-align: right;">Page 112</p> <p>1 Joseph Amato</p> <p>2 filings regarding the Alterix/Inpellis</p> <p>3 offering, in which it intended to be the</p> <p>4 underwriter on a firm commitment basis?</p> <p>5 A. I would be unaware. It would be</p> <p>6 more of legal. I don't know.</p> <p>7 Q. Did you have an understanding, in</p> <p>8 2015, as to whether or not Alexander Capital,</p> <p>9 in the face of this letter, could continue to</p> <p>10 be part of filings regarding the</p> <p>11 Alterix/Inpellis offering, in which it was</p> <p>12 the intended underwriter on a firm commitment</p> <p>13 basis?</p> <p>14 A. I don't know the legal process.</p> <p>15 The CMA was in as well, so I don't know. I</p> <p>16 don't know.</p> <p>17 Q. Okay. As you sit here today, do</p> <p>18 you have an understanding as to whether, in</p> <p>19 light of the restriction letter of June 11,</p> <p>20 2015, that Alexander Capital could or could</p> <p>21 not continue to be the intended underwriter</p> <p>22 on a firm commitment basis in the</p> <p>23 Alterix/Inpellis offering?</p> <p>24 A. I don't know the legal process as</p> <p>25 to the timing because of how this went down.</p>

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<p style="text-align: right;">Page 113</p> <p>1 Joseph Amato</p> <p>2 I don't know.</p> <p>3 Q. When you say, "legal process and</p> <p>4 timing of how this went down," could you help</p> <p>5 us out a little bit more about what exactly</p> <p>6 you mean by your answer?</p> <p>7 A. Sure. The initial filing and the</p> <p>8 CMA being in.</p> <p>9 Q. Okay.</p> <p>10 A. I don't know. I can't answer.</p> <p>11 Q. And just to be clear, your -- said</p> <p>12 -- there was an initial filing in April, a</p> <p>13 private confidential filing for</p> <p>14 Alterix/Inpellis, correct?</p> <p>15 A. I don't know the exact dates. I</p> <p>16 don't do this typically for the firm, so I</p> <p>17 can't answer to the processes behind it, and</p> <p>18 that's why we rely on Banking and Legal to do</p> <p>19 so. I don't know. I don't know the process.</p> <p>20 Q. Okay. So now I am asking as</p> <p>21 designee of Alexander Capital, regarding</p> <p>22 FINRA issues, as expressed by Attorney Ward</p> <p>23 previously, in accordance with the notice,</p> <p>24 all right? Remember that? Okay.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 115</p> <p>1 Joseph Amato</p> <p>2 offering, in which it was listed as the</p> <p>3 underwriter that intended to conduct the</p> <p>4 underwriting on a firm commitment basis?</p> <p>5 What was the understanding of</p> <p>6 Alexander Capital at that time, with respect</p> <p>7 to that?</p> <p>8 A. I would be unaware.</p> <p>9 Q. Now I am asking you to speak for</p> <p>10 Alexander Capital, now, not yourself.</p> <p>11 MR. WARD: And, Jan, I will</p> <p>12 object --</p> <p>13 MR. SCHLICHTMANN: Please,</p> <p>14 go ahead.</p> <p>15 MR. WARD: Just in terms of</p> <p>16 the scope -- I have given you a lot</p> <p>17 of leeway, in terms of the scope.</p> <p>18 The designation was for somebody</p> <p>19 regarding the financial ability and</p> <p>20 legal authority to undertake</p> <p>21 underwriting, whether characterized</p> <p>22 as best effort or firm commitment</p> <p>23 during 2014, 2016.</p> <p>24 MR. SCHLICHTMANN: Correct.</p> <p>25 MR. WARD: In terms of the</p>
<p style="text-align: right;">Page 114</p> <p>1 Joseph Amato</p> <p>2 Q. Now I am asking you as designee.</p> <p>3 Is it true that Alexander Capital</p> <p>4 knew, as of the receipt of the June 11, 2015,</p> <p>5 letter that we have just gone over, that --</p> <p>6 exhibit -- make sure I have -- Exhibit 127,</p> <p>7 that Alexander Capital could or could not be</p> <p>8 involved in any further filings in which --</p> <p>9 with -- on a confidential basis or on a</p> <p>10 public basis, in which it was listed as the</p> <p>11 underwriter that intended to conduct the</p> <p>12 underwriting on a firm commitment basis?</p> <p>13 A. Future filing for another company,</p> <p>14 I don't think so. This was already in. I</p> <p>15 don't know the process. I don't understand</p> <p>16 or know the process, even for Alexander</p> <p>17 Capital.</p> <p>18 Q. Okay. Now I want to make sure I</p> <p>19 understand the answer. Is -- what I am</p> <p>20 asking now as designee of Alexander Capital,</p> <p>21 LP, regarding FINRA issues, did Alexander</p> <p>22 Capital know, or what did Alexander Capital</p> <p>23 know as to whether or not, okay, it could</p> <p>24 participate in additional filings, after June</p> <p>25 11, 2015, regarding the Alterix/Inpellis</p>	<p style="text-align: right;">Page 116</p> <p>1 Joseph Amato</p> <p>2 filings, what was filed there in</p> <p>3 participating in as filings</p> <p>4 themselves, that wasn't designated</p> <p>5 here. I can give you some leeway</p> <p>6 here, but in terms of preparation</p> <p>7 for something on that particular</p> <p>8 issue is not something --</p> <p>9 MR. SCHLICHTMANN: Okay, I</p> <p>10 will just ask it generally, as</p> <p>11 opposed to specifically.</p> <p>12 MR. WARD: Generally in</p> <p>13 terms of?</p> <p>14 MR. SCHLICHTMANN: Alexander</p> <p>15 Capital's understanding of what it</p> <p>16 could or couldn't do, and I will</p> <p>17 just ask it in general sense</p> <p>18 rather --</p> <p>19 MR. WARD: Maybe in terms of</p> <p>20 acting as a lead underwriter or</p> <p>21 participating in filings --</p> <p>22 MR. SCHLICHTMANN: After the</p> <p>23 June 11 -- we can go --</p> <p>24 THE VIDEOGRAPHER: Did you</p> <p>25 say, "go off record"?</p>

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<p>1 Joseph Amato</p> <p>2 MR. SCHLICHTMANN: Yeah,</p> <p>3 let's go off record.</p> <p>4 THE VIDEOGRAPHER: Going off</p> <p>5 video record. The time is 12:22</p> <p>6 p.m.</p> <p>7 (Whereupon, a recess was</p> <p>8 taken at this time.)</p> <p>9 THE VIDEOGRAPHER: Back on</p> <p>10 video record. Time is 12:34 p.m.</p> <p>11 BY MR. SCHLICHTMANN:</p> <p>12 Q. And just to -- Mr. Amato, I think</p> <p>13 you have to move over just a little bit to be</p> <p>14 centered in the frame, that's all. Yeah,</p> <p>15 great. Yeah, great. All right. We're</p> <p>16 ready?</p> <p>17 THE VIDEOGRAPHER: Yes.</p> <p>18 MR. SCHLICHTMANN: All</p> <p>19 right, great.</p> <p>20 Q. Mr. Amato, I am asking you now as</p> <p>21 the designee for Alexander Capital. What was</p> <p>22 Alexander Capital's understanding after its</p> <p>23 receipt of the June 11, 2015, letter, from</p> <p>24 FINRA, regarding the restrictions that we</p> <p>25 have previously went over, as to whether or</p>	<p>1 Joseph Amato</p> <p>2 MR. WARD: "Part of" is --</p> <p>3 MR. SCHLICHTMANN: Don't use</p> <p>4 the phrase "part of"?</p> <p>5 MR. WARD: Yeah, "part of</p> <p>6 it."</p> <p>7 MR. SCHLICHTMANN: Got it.</p> <p>8 Okay, I will not use that. Got it.</p> <p>9 Q. Okay. Great. Are we okay?</p> <p>10 A. Sure.</p> <p>11 Q. Great. All right. Now I am asking</p> <p>12 you, Mr. Amato, in your position as the</p> <p>13 designee for Alexander Capital, what was</p> <p>14 Alexander Capital's understanding after</p> <p>15 receipt of the June 11, 2015, FINRA letter</p> <p>16 that we have previously gone over, in which</p> <p>17 it imposed certain restrictions that we've</p> <p>18 gone over, regarding whether or not Alexander</p> <p>19 Capital could be listed as the underwriter</p> <p>20 who intended to do a -- the underwriting on a</p> <p>21 firm commitment basis, as to whether or not</p> <p>22 Alexander Capital could be listed as the</p> <p>23 underwriter who intended to do an offering on</p> <p>24 a firm commitment basis, after receipt of</p> <p>25 that letter?</p>
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<p>1 Joseph Amato</p> <p>2 not Alexander Capital could continue to be</p> <p>3 part of any filings, whether private or</p> <p>4 public, regarding an offering in which it was</p> <p>5 intended to be the underwriter on a firm</p> <p>6 commitment basis?</p> <p>7 MR. WARD: Objection; vague.</p> <p>8 Q. And in light of the objection</p> <p>9 there, is there -- do you understand the</p> <p>10 question? If not, I will rephrase it. I</p> <p>11 want to make sure you understand my question.</p> <p>12 A. Can you rephrase it?</p> <p>13 Q. Okay. Again, Mr. Amato, I know</p> <p>14 it's --</p> <p>15 A. Can you hold on. Let me fix my</p> <p>16 video.</p> <p>17 Q. Yeah, sure, sure, absolutely. Take</p> <p>18 your time. Now we are obstructed by your</p> <p>19 keyboard.</p> <p>20 MR. WARD: Jan, if it's</p> <p>21 helpful, I can tell you what the</p> <p>22 vague part is. Otherwise, I won't</p> <p>23 interfere.</p> <p>24 MR. SCHLICHTMANN: Yeah,</p> <p>25 yeah, sure, go ahead.</p>	<p>1 Joseph Amato</p> <p>2 A. It's my understanding Alexander</p> <p>3 Capital don't do the filing.</p> <p>4 Q. "Don't do the filing"?</p> <p>5 A. We don't file it.</p> <p>6 Q. Okay. Could they be listed in any</p> <p>7 filing? Alexander Capital -- what was</p> <p>8 Alexander Capital's understanding as to</p> <p>9 whether it could be listed in any such</p> <p>10 filing, as the underwriter who intended to</p> <p>11 underwrite the offering on a firm commitment</p> <p>12 basis? Could it be listed or not be listed?</p> <p>13 A. We don't file. The issuer does the</p> <p>14 filing and lists what they choose to.</p> <p>15 Q. Okay. And -- okay. But what I am</p> <p>16 asking is: What was Alexander Capital's</p> <p>17 understanding as to whether it was -- it</p> <p>18 could be listed, not whether somebody is</p> <p>19 listing them, but whether it was appropriate</p> <p>20 to list them in such a filing, after receipt</p> <p>21 of the June 11, 2015, letter?</p> <p>22 A. I believe they were -- we were in</p> <p>23 good order.</p> <p>24 Q. What does that mean, "in good</p> <p>25 order"?</p>

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<p style="text-align: right;">Page 121</p> <p>1 Joseph Amato</p> <p>2 A. Alexander was -- I believe they</p> <p>3 were allowed to file it. We don't do the</p> <p>4 filings, so it's -- I can't control the issue</p> <p>5 of filing.</p> <p>6 Q. Okay. Right now you are saying --</p> <p>7 let me ask it this way: Was it Alexander</p> <p>8 Capital's understanding, in 2015, that --</p> <p>9 whether or not it had any responsibilities</p> <p>10 regarding review and approval of any filing</p> <p>11 intended to be made by an issuing company in</p> <p>12 which Alexander Capital was intending to be</p> <p>13 the underwriter?</p> <p>14 A. No.</p> <p>15 Q. No such responsibilities?</p> <p>16 A. No.</p> <p>17 Q. And are you now -- again, you are</p> <p>18 saying this as designee of Alexander Capital,</p> <p>19 LP, and I want to be very clear here that as</p> <p>20 designee of Alexander Capital, LP, it is your</p> <p>21 testimony that Alexander Capital, in 2015,</p> <p>22 did not understand that it had a requirement,</p> <p>23 all right, to review, and I will say,</p> <p>24 "requirement," under the rules and</p> <p>25 regulations of FINRA or the SEC, okay, that</p>	<p style="text-align: right;">Page 123</p> <p>1 Joseph Amato</p> <p>2 listed as the underwriter?</p> <p>3 A. I was unaware. It wasn't my role</p> <p>4 with the firm.</p> <p>5 Q. All right. Now, I am asking you as</p> <p>6 designee. What was Alexander Capital's</p> <p>7 understanding as to the rules and regulations</p> <p>8 of FINRA regarding whether or not it had to</p> <p>9 review and approve any filing in which -- by</p> <p>10 an issuing company, in which it was listed as</p> <p>11 the underwriter?</p> <p>12 MR. WARD: I will object,</p> <p>13 again, to outside of the scope.</p> <p>14 MR. SCHLICHTMANN: Will you</p> <p>15 let me have it or not?</p> <p>16 MR. WARD: I will object to</p> <p>17 it. You can, I mean --</p> <p>18 MR. SCHLICHTMANN: Well,</p> <p>19 it's up to you, if you are, you</p> <p>20 know, I don't want to overstep</p> <p>21 myself here. Can I have the</p> <p>22 question or not?</p> <p>23 MR. WARD: You can ask him</p> <p>24 on a personal --</p> <p>25 MR. SCHLICHTMANN: Okay, but</p>
<p style="text-align: right;">Page 122</p> <p>1 Joseph Amato</p> <p>2 such requirements required Alexander Capital</p> <p>3 to review and approve any offering being</p> <p>4 filed in which it intended to be the</p> <p>5 underwriter?</p> <p>6 MR. WARD: Objection.</p> <p>7 Just outside of the scope of</p> <p>8 his role as --</p> <p>9 MR. SCHLICHTMANN: No, I am</p> <p>10 asking personally now.</p> <p>11 MR. WARD: Okay.</p> <p>12 MR. SCHLICHTMANN: Yeah.</p> <p>13 MR. WARD: I thought you</p> <p>14 prefaced that with --</p> <p>15 MR. SCHLICHTMANN: I did. I</p> <p>16 did. All right. Well, you think</p> <p>17 it's outside of the scope? Well,</p> <p>18 isn't -- let me see if I can make</p> <p>19 it a little more scope-y.</p> <p>20 Q. All right, well, let me just ask</p> <p>21 you personally, were you aware, in 2015, as</p> <p>22 to whether or not Alexander Capital was</p> <p>23 required under FINRA to review and approve</p> <p>24 any filing that was being made by an issuing</p> <p>25 company, in which Alexander Capital was</p>	<p style="text-align: right;">Page 124</p> <p>1 Joseph Amato</p> <p>2 you are -- not on a -- as a</p> <p>3 designee?</p> <p>4 MR. WARD: No, because it's</p> <p>5 outside of the scope.</p> <p>6 MR. SCHLICHTMANN: Okay,</p> <p>7 what I am -- okay, but doesn't it</p> <p>8 come under the, you know, his, you</p> <p>9 know, the knowledge of FINRA, you</p> <p>10 know, underwriting authority under</p> <p>11 it? Can't --</p> <p>12 MR. WARD: Regarding the</p> <p>13 financial ability and legal</p> <p>14 authority of Alexander Capital to</p> <p>15 undertake underwriting?</p> <p>16 MR. SCHLICHTMANN: Yes.</p> <p>17 MR. WARD: Whether it</p> <p>18 characterizes as best efforts or</p> <p>19 firm commitment during 2014, 2016.</p> <p>20 MR. SCHLICHTMANN: Okay, you</p> <p>21 don't think that question comes</p> <p>22 under that?</p> <p>23 MR. WARD: Just whether they</p> <p>24 had the authority to undertake best</p> <p>25 efforts or firm commitment</p>

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<p style="text-align: right;">Page 125</p> <p>1 Joseph Amato</p> <p>2 underwriting. That's what he's</p> <p>3 designated as in that various</p> <p>4 responsibilities of a broker-dealer</p> <p>5 with or underwriter with respect to</p> <p>6 a --</p> <p>7 MR. SCHLICHTMANN: All</p> <p>8 right, fine.</p> <p>9 MR. WARD: I have given you</p> <p>10 -- I have allowed a lot of</p> <p>11 questions outside of the scope</p> <p>12 already but --</p> <p>13 MR. SCHLICHTMANN: It's</p> <p>14 fine. Let me just ask him</p> <p>15 personally and I'll move on, okay.</p> <p>16 Q. Was it your understanding, in 2015,</p> <p>17 as to -- that Alexander Capital, as an</p> <p>18 underwriter, had any kind of obligation,</p> <p>19 under the rules and regulations of FINRA or</p> <p>20 the SEC, that before a filing in which it was</p> <p>21 the intended underwriter, that it had to</p> <p>22 review and approve the filing before it was</p> <p>23 filed, or you had no such understanding?</p> <p>24 A. I'm unaware. It wasn't my role at</p> <p>25 the firm.</p>	<p style="text-align: right;">Page 127</p> <p>1 Joseph Amato</p> <p>2 application, it was your understanding that</p> <p>3 Alexander Capital had an obligation to make</p> <p>4 sure that any responses to requests for</p> <p>5 information, regarding an application, had to</p> <p>6 be as accurate and truthful as Alexander</p> <p>7 Capital could do to its ability?</p> <p>8 A. Normally to our ability.</p> <p>9 Q. Okay, now...</p> <p>10 MR. WARD: Is there a</p> <p>11 question?</p> <p>12 MR. SCHLICHTMANN: Very</p> <p>13 good.</p> <p>14 Q. I will show you a letter and -- all</p> <p>15 right, I am showing you a letter dated</p> <p>16 October 27, 2015, from Sichenzia Ross to</p> <p>17 FINRA. Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Are you -- were you aware of the</p> <p>20 fact that -- well, let me ask you this: In</p> <p>21 looking at this letter, which is Plaintiff's</p> <p>22 Exhibit 129, is this letter at all familiar</p> <p>23 to you?</p> <p>24 Is it something you saw prior to</p> <p>25 your testimony today?</p>
<p style="text-align: right;">Page 126</p> <p>1 Joseph Amato</p> <p>2 Q. Okay. Was it your understanding,</p> <p>3 in 2015, that Alexander Capital had an</p> <p>4 obligation, regarding its CMA application, to</p> <p>5 make any requests for information or</p> <p>6 explanation to respond in an accurate and</p> <p>7 truthful fashion, to the best of its ability?</p> <p>8 A. I didn't handle the CMA. The</p> <p>9 attorneys did. So, I don't know.</p> <p>10 Q. I am asking now your personal</p> <p>11 knowledge.</p> <p>12 Was it your understanding that if</p> <p>13 FINRA asked Alexander Capital -- whether it's</p> <p>14 their counsel or anyone else associated with</p> <p>15 Alexander Capital -- for information,</p> <p>16 regarding its CMA application, that Alexander</p> <p>17 Capital had an obligation to answer honestly</p> <p>18 and accurately, to the best of its ability,</p> <p>19 to any such request for information?</p> <p>20 A. In the CMA? Did we have to answer</p> <p>21 accurately in the CMA? Yes, we have to</p> <p>22 answer accurately, to the best of our</p> <p>23 ability, if we know something.</p> <p>24 Q. Okay. And if there are additional</p> <p>25 requests for information regarding an</p>	<p style="text-align: right;">Page 128</p> <p>1 Joseph Amato</p> <p>2 A. I don't believe so. I am unaware.</p> <p>3 Q. In preparation for the deposition,</p> <p>4 do you remember reviewing it at all?</p> <p>5 A. I don't recall off the top of my</p> <p>6 head. All I see is the title letter from the</p> <p>7 lawyer.</p> <p>8 Q. Okay, dated October 27, 2015. It's</p> <p>9 to the examiner, Mr. Francois, at FINRA, and</p> <p>10 it's "continuing membership application</p> <p>11 regarding Alexander Capital, LP." Do you see</p> <p>12 that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. In this letter, which was</p> <p>15 sent by Mr. Carmel of Sichenzia Ross, to</p> <p>16 FINRA, in response to their requests, it</p> <p>17 states at the beginning, "As you know, this</p> <p>18 firm represents Alexander Capital, LP,</p> <p>19 Alexander, or the firm, we are in receipt of</p> <p>20 this staff's request to Alexander pursuant to</p> <p>21 Rule 1017, dated October 19, 2015, the</p> <p>22 request, we trust the foregoing responses</p> <p>23 will satisfy in full the request, such that</p> <p>24 Alexander's application to amend its</p> <p>25 membership agreement to increase the number</p>

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<p style="text-align: right;">Page 129</p> <p>1 Joseph Amato</p> <p>2 of associated persons, approval to engage in</p> <p>3 firm commitment underwriting activity,</p> <p>4 approval to engage in proprietary trading,</p> <p>5 and change of ownership is approved by</p> <p>6 FINRA." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, it's -- then lists</p> <p>9 "number 1, request from FINRA, provide</p> <p>10 documentation of Nesa Management, LLC's,</p> <p>11 Nesa, assumption of the role of general</p> <p>12 partner of the firm, draft or executed."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. It appears this item may have been</p> <p>16 Exhibit J and or K, but appears it was</p> <p>17 omitted, and then it says, "response."</p> <p>18 "Responsive documents are enclosed herewith</p> <p>19 as Exhibit A." Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. Okay. And when we go to Exhibit A</p> <p>22 in Plaintiff's Exhibit 129, all right, this</p> <p>23 is Exhibit A. It's a document entitled</p> <p>24 "assignment and assumption agreement." Do</p> <p>25 you see that?</p>	<p style="text-align: right;">Page 131</p> <p>1 Joseph Amato</p> <p>2 A. I am not too familiar with it.</p> <p>3 Q. Did you -- are you aware as to</p> <p>4 whether you had any involvement with</p> <p>5 Alexander Capital Holdings, Inc., of any</p> <p>6 kind?</p> <p>7 A. I don't recall the structure of the</p> <p>8 company that -- back then.</p> <p>9 Q. Do you recall whether you or</p> <p>10 Mr. Guidici Pietro had any involvement with</p> <p>11 Alexander Capital Holdings, Inc.?</p> <p>12 A. I don't recall.</p> <p>13 Q. Okay. In this agreement, it states</p> <p>14 there was not -- it's not executed and not</p> <p>15 dated, but it was given to FINRA in the</p> <p>16 October 2015 time frame as part of -- in</p> <p>17 response to the question that we just went</p> <p>18 over, all right. I want you to assume that</p> <p>19 that's correct, all right?</p> <p>20 Do you have any reason to believe</p> <p>21 that, in 2015, there was a proposed agreement</p> <p>22 between Alexander Capital Holdings, Inc., and</p> <p>23 Nesa, regarding GP interest in Alexander</p> <p>24 Capital, LP?</p> <p>25 A. You mean, this unexecuted document?</p>
<p style="text-align: right;">Page 130</p> <p>1 Joseph Amato</p> <p>2 A. I do.</p> <p>3 Q. All right. Now, it says, "The</p> <p>4 assignment and assumption agreement, this</p> <p>5 agreement, dated as of," blank, blank, "is</p> <p>6 made by and between Alexander Capital</p> <p>7 Holdings, Inc., a Delaware corporation, the</p> <p>8 company, and Nesa Management, LLC, a New York</p> <p>9 limited liability company." And referred to</p> <p>10 in this agreement as "New GP."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Now, in looking at this document,</p> <p>14 does this refresh your recollection at all as</p> <p>15 to whether there was ever a proposed</p> <p>16 assignment and assumption agreement between</p> <p>17 Alexander Capital Holdings, Inc., and Nesa</p> <p>18 Management, to your knowledge?</p> <p>19 A. Absolutely not.</p> <p>20 Q. You are saying, "absolutely not,"</p> <p>21 there was no such agreement?</p> <p>22 A. No, it doesn't refresh my memory.</p> <p>23 Q. Okay, all right. Do you know</p> <p>24 Alexander Capital Holdings, Inc.? Do you</p> <p>25 know of that corporation?</p>	<p style="text-align: right;">Page 132</p> <p>1 Joseph Amato</p> <p>2 I don't recall it, no. I don't recall. I</p> <p>3 don't know.</p> <p>4 Q. Does the unexecuted document</p> <p>5 refresh your recollection as to whether there</p> <p>6 was a proposed agreement of any kind between</p> <p>7 Alexander Capital Holdings, Inc., and Nesa</p> <p>8 Management, regarding the GP interest in</p> <p>9 Alexander Capital, LP?</p> <p>10 A. I don't recall.</p> <p>11 Q. Okay. And it states, "Whereas the</p> <p>12 company, referring to Alexander Capital</p> <p>13 Holdings, Inc., holds 100 percent of the</p> <p>14 general partnership interest, the GP interest</p> <p>15 of Alexander Capital, LP, a Delaware limited</p> <p>16 partnership, and serves as the sole general</p> <p>17 partner thereof." Do you see that?</p> <p>18 A. Yeah.</p> <p>19 Q. Was it your understanding, in 2015,</p> <p>20 that Alexander Capital Holdings, Inc., held a</p> <p>21 100 percent of the general partnership</p> <p>22 interest of Alexander Capital, LP, and served</p> <p>23 as its sole general partner in that time?</p> <p>24 A. I don't know. I am uncertain.</p> <p>25 Q. And reading that doesn't help</p>

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2 refresh your recollection regarding that?

3 A. Regarding a document that's not

4 executed -- I don't know.

5 Q. Then it says, "Whereas, Alexander

6 Capital Holdings, Inc., desires to transfer

7 the GP interest to New GP, referring to Nesa

8 Management, and New GP, referring to Nesa

9 Management, deserves to" -- "desires to

10 assume the role of general partner of the

11 partnership, dated as of the date hereof."

12 Do you see that?

13 A. I do.

14 Q. Now, this is undated. However,

15 it's being presented to FINRA in October of

16 2015, all right.

17 Correct?

18 A. If you say so.

19 Q. All right. And it's -- it states,

20 so as of that time, according to this

21 document, in reference to the fact that it's

22 being presented by Alexander Capital to FINRA

23 in October of 2015, it's stating that "Nesa

24 desires to assume role of general partner as

25 of that date."

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2 Was it your understanding, in 2015,

3 that Nesa was not the general partner of

4 Alexander Capital, LP, at that time?

5 A. I don't recall.

6 Q. Was it your understanding that

7 Alexander Capital -- that Nesa Management was

8 trying to become the general partner of

9 Alexander Capital at that time?

10 A. I don't recall the dates of it. I

11 don't recall.

12 Q. This doesn't help you at all?

13 A. Absolutely not. This document

14 doesn't help me. I don't recall ever seeing

15 it.

16 Q. Okay. To your mind, was an

17 agreement ever entered into between Alexander

18 Capital Holdings, Inc., and Nesa Management,

19 regarding the general partnership interest in

20 Alexander Capital, at any time?

21 A. I don't recall.

22 Q. In this letter, it states on page

23 3, "In December of 2013, a full year after

24 the misconduct alleged by the staff," and

25 it's referring to a notification from FINRA

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2 that it intended to enter to or have an

3 examination investigation of Alexander

4 Capital regarding certain activities in 2011,

5 all right, and this -- and FINRA was asking

6 for a response as to whether that should be

7 taken into account regarding the application

8 for approval, with that as background, it

9 says, "In December of 2013, a full year after

10 the last misconduct alleged by the staff,

11 active control of the firm was sold to

12 Messrs. Amato and Guidiciopietro." Do you see

13 that?

14 A. I do.

15 Q. Okay. Now, this is a statement

16 made by Sichenzia Ross to FINRA in October of

17 2015. Is that statement, to your knowledge,

18 correct?

19 Was that a correct statement?

20 A. I don't believe so.

21 Q. What about it is incorrect?

22 A. I -- I didn't purchase -- I don't

23 -- the firm was sold to myself and Rocco. I

24 don't believe that to be correct.

25 Q. So the statement "active control of

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1 Joseph Amato

2 the firm being sold to Messrs. Amato and

3 Guidiciopietro in December of 2013," you do

4 not believe is an accurate statement?

5 A. Correct.

6 Q. And was not accurate at the time?

7 A. I don't believe it to be.

8 Q. Now, if -- if the -- if the active

9 control -- if the letter was meant to convey

10 -- or would it be accurate to say that in

11 December of 2013 -- no. Well, let's just

12 stick with control of the firm.

13 You don't think it's accurate to

14 say, "control of the firm" or "sold" to

15 yourself and Mr. Guidiciopietro; is that what

16 you are saying?

17 A. Yes. I don't believe -- I don't

18 believe we bought control over the firm in

19 2013, whatsoever.

20 Q. Okay. At some point did you?

21 A. No.

22 Q. So your testimony is that at no

23 time did you or Mr. Guidiciopietro purchase

24 the active control of the firm; is that what

25 you are saying?

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<p style="text-align: right;">Page 137</p> <p>1 Joseph Amato</p> <p>2 A. We never purchased the firm, Rocco</p> <p>3 and myself.</p> <p>4 Q. Right, but Nesa Management did; is</p> <p>5 that right?</p> <p>6 A. Nesa purchased a portion of the</p> <p>7 firm that we went through over the years in a</p> <p>8 chronological order of it, but I did not</p> <p>9 purchase the firm.</p> <p>10 Q. Okay.</p> <p>11 A. Nor did Rocco.</p> <p>12 Q. Okay. If -- if -- okay, and if the</p> <p>13 -- so -- but after Nesa purchased its</p> <p>14 percentage interest of 24.9 percent, at that</p> <p>15 point, is it accurate to say that you and Mr.</p> <p>16 Amato -- excuse me -- you and Mr.</p> <p>17 Guidici Pietro got active control of Alexander</p> <p>18 Capital, LP? Would that be accurate?</p> <p>19 A. No, there was staff in charge of</p> <p>20 the firm at the time.</p> <p>21 Q. Okay. All right. Well, would it</p> <p>22 be accurate to say that you and Mr.</p> <p>23 Guidici Pietro had control of that staff --</p> <p>24 ultimate control of that staff, or that would</p> <p>25 not be accurate?</p>	<p style="text-align: right;">Page 139</p> <p>1 Joseph Amato</p> <p>2 Alexander Capital, LP, after December 2013?</p> <p>3 A. It would depend on what the roles</p> <p>4 were at the firm at the time.</p> <p>5 Q. Okay. Here it's saying, in</p> <p>6 December 2013, you -- you and Mr.</p> <p>7 Guidici Pietro exercised active control of the</p> <p>8 firm. Do you see that? If we just focus on</p> <p>9 that part of the sentence and not about</p> <p>10 whether you acquired it, all right, just as</p> <p>11 to in December of 2013 and afterwards, is it</p> <p>12 truthful to say that you and Mr.</p> <p>13 Guidici Pietro exercised active control of the</p> <p>14 firm?</p> <p>15 A. No.</p> <p>16 Q. Okay. Is it accurate to say that</p> <p>17 you and Mr. Guidici Pietro at some point after</p> <p>18 December 2013, exercised active control over</p> <p>19 the firm?</p> <p>20 A. It would only depend if our roles</p> <p>21 called for it, as far as a CROP, a ROP, only</p> <p>22 in that aspect, if we were hired for that</p> <p>23 job.</p> <p>24 Q. All right. Well, how about as Mr.</p> <p>25 -- well, was your understanding that Mr.</p>
<p style="text-align: right;">Page 138</p> <p>1 Joseph Amato</p> <p>2 A. No, they were hired to run the firm</p> <p>3 and to make decisions on behalf of the firm.</p> <p>4 Q. Were they hired to make decisions,</p> <p>5 independent of you and Mr. Guidici Pietro?</p> <p>6 A. That is correct.</p> <p>7 Q. And as far as you and Mr.</p> <p>8 Guidici Pietro were concerned, you -- they</p> <p>9 were to conduct their business without your</p> <p>10 acting -- exercising any supervisory control</p> <p>11 over their activities; is that what you are</p> <p>12 saying?</p> <p>13 A. Correct.</p> <p>14 MR. WARD: Objection.</p> <p>15 Calls for speculation.</p> <p>16 Q. Okay. Okay. But I just want to</p> <p>17 make sure.</p> <p>18 Are you satisfied with your answer</p> <p>19 to my question? You understood my question?</p> <p>20 A. No. Can you repeat it?</p> <p>21 Q. Okay, all right. Was it your</p> <p>22 understanding that neither you or Mr.</p> <p>23 Guidici Pietro exercised any control over the</p> <p>24 activity -- supervisory control over any of</p> <p>25 the activities of anyone else at the -- at</p>	<p style="text-align: right;">Page 140</p> <p>1 Joseph Amato</p> <p>2 Guidici Pietro as chief operations officer</p> <p>3 exercised active control of the firm?</p> <p>4 A. That's not a managerial role of</p> <p>5 managing -- managing the personnel.</p> <p>6 Q. Okay. You -- and at -- and, okay,</p> <p>7 and just to be clear here, after December</p> <p>8 2013, is there any period of time in which</p> <p>9 you exercised active control of the firm?</p> <p>10 A. Only if I was in that role at the</p> <p>11 time, of the CROP or ROP or something to that</p> <p>12 effect.</p> <p>13 Q. And you are saying the CROP and</p> <p>14 ROP. But that only deals with options,</p> <p>15 right?</p> <p>16 A. Correct.</p> <p>17 Q. Okay, so I am -- I am going to</p> <p>18 exclude options, anything having to do with</p> <p>19 options, all right? I want to take that off</p> <p>20 of the table and ask you about anything else</p> <p>21 other than options.</p> <p>22 Did you exercise active control of</p> <p>23 the firm after December of 2013?</p> <p>24 A. I don't recall at that time.</p> <p>25 Q. Okay. And I am saying after --</p>

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<p>1 Joseph Amato</p> <p>2 A. I don't believe so.</p> <p>3 Q. Okay. From 2013 onward; is that</p> <p>4 the same answer?</p> <p>5 A. Yeah, I don't believe so.</p> <p>6 Q. All right. It says in a footnote</p> <p>7 here, "A share having been previously sold to</p> <p>8 Mr. Figliola," and obviously misspelling,</p> <p>9 it's Mr. Figliola -- -lo, with an "O," "who</p> <p>10 has never had active control of any aspect of</p> <p>11 Alexander Capital." Do you see that</p> <p>12 footnote?</p> <p>13 A. I do.</p> <p>14 Q. So in -- that's a footnote to the</p> <p>15 statement. "In December 2013, a full year</p> <p>16 after the last misconduct alleged by the</p> <p>17 staff, active control of the firm was sold to</p> <p>18 Mr. Amato and Guidiciopietro," and the</p> <p>19 footnote is, "A share having been previously</p> <p>20 sold to Mr. Figliolo, who has never had</p> <p>21 active control of any aspect of Alexander</p> <p>22 Capital."</p> <p>23 Now, just referring to that</p> <p>24 footnote, is it your understanding that Mr.</p> <p>25 Figliolo has never had active control of any</p>	<p>1 Joseph Amato</p> <p>2 our lunch break and get us all out</p> <p>3 of here at an earlier time.</p> <p>4 THE VIDEOGRAPHER: Go off</p> <p>5 record now?</p> <p>6 MR. SCHLICHTMANN: Yeah,</p> <p>7 yeah, of course, because then I</p> <p>8 will be held to what I just said,</p> <p>9 right?</p> <p>10 THE VIDEOGRAPHER: Off the</p> <p>11 record. Time is 1:02 p.m.</p> <p>12 (Whereupon, a lunch recess</p> <p>13 was taken at this time.)</p> <p>14 THE VIDEOGRAPHER: Back on</p> <p>15 video record. Time is 1:42 p.m.</p> <p>16 BY MR. SCHLICHTMANN:</p> <p>17 Q. I am going to show you a document.</p> <p>18 Now, this is the document that we were</p> <p>19 referring to previously. This is exhibit --</p> <p>20 it's Exhibit 129, and attached to it is, just</p> <p>21 by way of preface, is a letter from FINRA</p> <p>22 dated June -- dated September 1st, 2015, as</p> <p>23 part of the same exhibit that we -- 129, and</p> <p>24 it's an attachment to it, and it's a letter</p> <p>25 from FINRA -- this is a black-and-white copy</p>
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<p>1 Joseph Amato</p> <p>2 aspect of Alexander Capital?</p> <p>3 A. It's my understanding he was a</p> <p>4 passive owner.</p> <p>5 Q. Now, later on in this letter</p> <p>6 there's an additional exhibit.</p> <p>7 MR. WARD: Just -- it's 1</p> <p>8 o'clock now. Do you want to finish</p> <p>9 up with the document first? We can</p> <p>10 do that.</p> <p>11 MR. SCHLICHTMANN: No, take</p> <p>12 the lunch. It's fine. It's a late</p> <p>13 lunch, so that's fine. Let's do</p> <p>14 that. I will be very efficient</p> <p>15 after lunch.</p> <p>16 MR. WARD: Okay, and we're</p> <p>17 trying -- I don't know if we can</p> <p>18 move this more quickly, maybe</p> <p>19 forty-minute lunch. Does that work</p> <p>20 for you?</p> <p>21 MR. SCHLICHTMANN: Forty</p> <p>22 minutes is fine. Absolutely. It</p> <p>23 will not be like yesterday. I</p> <p>24 should be able to get everything</p> <p>25 all done fairly efficiently after</p>	<p>1 Joseph Amato</p> <p>2 of it -- dated September 1st, 2015, to</p> <p>3 Alexander Capital, and it's about an</p> <p>4 examination investigation number, and -- an</p> <p>5 examination investigation by FINRA. Do you</p> <p>6 see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And -- and it's about -- it</p> <p>9 says, "On September 1, 2015, a staff of</p> <p>10 FINRA's Department of Enforcement advised</p> <p>11 you" -- meaning Alexander Capital -- "that it</p> <p>12 made a preliminary determination to recommend</p> <p>13 that disciplinary action be brought against</p> <p>14 Alexander Capital."</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. And without going into the details</p> <p>18 of this particular event, were you aware, in</p> <p>19 2015, that FINRA notified Alexander Capital</p> <p>20 that there was a past conduct in which they</p> <p>21 considered was a potential violation of its</p> <p>22 rules?</p> <p>23 A. At some point, I believe so, yes.</p> <p>24 Q. All right. And were you aware of</p> <p>25 the fact that counsel for the firm responded</p>

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<p style="text-align: right;">Page 145</p> <p>1 Joseph Amato</p> <p>2 to that investigation or allegation, and</p> <p>3 responded in what was referred to as a "wells</p> <p>4 response," a "wells document," a "wells</p> <p>5 answer."</p> <p>6 Are you familiar with the term</p> <p>7 "wells answer"?</p> <p>8 A. A little bit, but I recall the</p> <p>9 reply.</p> <p>10 Q. Okay. All right. Were you aware</p> <p>11 of it at the time that it occurred, in 2015?</p> <p>12 A. No.</p> <p>13 Q. Did you become aware of it later?</p> <p>14 A. Later at some point.</p> <p>15 Q. Was it after 2015?</p> <p>16 A. I don't recall, exactly.</p> <p>17 Q. Okay. All right. Now, this is the</p> <p>18 submission on behalf of Alexander Capital</p> <p>19 regarding this particular allegation, and --</p> <p>20 about a past event. And in the response to</p> <p>21 it, Alexander Capital -- these statements</p> <p>22 were made on behalf of Alexander Capital</p> <p>23 regarding the record. This is part of the</p> <p>24 response that was made to FINRA about this</p> <p>25 particular allegation, but general statements</p>	<p style="text-align: right;">Page 147</p> <p>1 Joseph Amato</p> <p>2 was a passive owner.</p> <p>3 Q. All right. Does that sound right,</p> <p>4 in 2012?</p> <p>5 A. Approximate.</p> <p>6 Q. Okay. "In December 2013, two years</p> <p>7 after the period covered by the staff's</p> <p>8 investigation, Nesa Management, LLC, which is</p> <p>9 owned by Joseph Amato," CRD number, "and</p> <p>10 Rocco Guidiciopietro," CRD number, "purchased</p> <p>11 an interest in the firm."</p> <p>12 Is that consistent with your</p> <p>13 memory?</p> <p>14 A. Yes.</p> <p>15 Q. And then it says, "Messrs. Amato</p> <p>16 and Guidiciopietro, neither of whom were at</p> <p>17 the firm in 2010, 2011, are now active owners</p> <p>18 and partners in the firm." Do you see that</p> <p>19 statement?</p> <p>20 A. Yeah, we're partners in Nesa</p> <p>21 Management which the firm -- not the firm</p> <p>22 directly.</p> <p>23 Q. Okay. And -- but so is the</p> <p>24 statement correct that, either directly or</p> <p>25 through Nesa Management, both you and Mr.</p>
<p style="text-align: right;">Page 146</p> <p>1 Joseph Amato</p> <p>2 were made about the past, and that's what I</p> <p>3 want to refer to here, all right? I am not</p> <p>4 interested so much in going into details</p> <p>5 about that past event. I am -- I want to</p> <p>6 direct your attention to statements that were</p> <p>7 made in response to it about things in</p> <p>8 general, all right?</p> <p>9 So on this page three it -- it</p> <p>10 states -- the statement that was made on</p> <p>11 behalf of Alexander Capital, it talks about</p> <p>12 the history, and it says that, "In 2012" --</p> <p>13 do you see I have highlighted in yellow? Now</p> <p>14 this is my highlighting in yellow. This was</p> <p>15 not part of the original document, all right?</p> <p>16 It says, "In 2012, Exitus, LLC, which is</p> <p>17 owned by Joseph Figliolo," CRD number,</p> <p>18 "became a silent partner in the firm."</p> <p>19 Do you see that sentence?</p> <p>20 A. Yes.</p> <p>21 Q. Okay, is it consistent with your</p> <p>22 memory that in 2012, Exitus, which was owned</p> <p>23 by Joseph Figliolo became a silent partner in</p> <p>24 Alexander Capital, LP, in 2012?</p> <p>25 A. I -- I -- I recall -- I believe he</p>	<p style="text-align: right;">Page 148</p> <p>1 Joseph Amato</p> <p>2 Guidiciopietro became the active owners and</p> <p>3 partners in the firm, either directly or</p> <p>4 indirectly through Nesa?</p> <p>5 A. Through Nesa we would be indirect</p> <p>6 owners of the firm.</p> <p>7 Q. How about partners?</p> <p>8 A. No, we're indirect owners of the</p> <p>9 firm through Nesa at all times.</p> <p>10 Q. Okay. And who was a partner?</p> <p>11 Was Nesa a partner in the firm?</p> <p>12 A. Nesa would be the direct owner of</p> <p>13 the firm.</p> <p>14 Q. All right. And in that way, is it</p> <p>15 consistent with your understanding that they</p> <p>16 should be characterized that either you or</p> <p>17 Mr. Guidiciopietro and/or Nesa either</p> <p>18 individually or together should be described</p> <p>19 as "partners in the firm"?</p> <p>20 A. I can't answer to that.</p> <p>21 Q. How about you, yourself?</p> <p>22 A. I would have to look at my filings</p> <p>23 and stuff, but I believe we were -- through</p> <p>24 Nesa, we had ownership, and that's -- that's</p> <p>25 what I would stick to.</p>

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<p style="text-align: right;">Page 149</p> <p>1 Joseph Amato</p> <p>2 Q. Are you familiar with the term</p> <p>3 "partner"?</p> <p>4 Does that mean something to you?</p> <p>5 A. No, not familiar in how it's being</p> <p>6 used here, so, no.</p> <p>7 Q. But are you, in general, aware of</p> <p>8 the term "partner"?</p> <p>9 A. It depends how it's used.</p> <p>10 Q. All right. Well, what's your</p> <p>11 understanding of "partner," as you sit here</p> <p>12 today?</p> <p>13 A. My wife is my partner.</p> <p>14 Q. Okay. Good. Good answer. How</p> <p>15 about in a business sense, do you have an</p> <p>16 understanding of what it means to be a</p> <p>17 partner in a business organization?</p> <p>18 A. I don't have confidence in this</p> <p>19 use, so I am not certain how it would be used</p> <p>20 in this instance.</p> <p>21 Q. Okay, but I am just asking in</p> <p>22 general.</p> <p>23 Do you have an understanding, as</p> <p>24 you sit here today, of how the word "partner"</p> <p>25 is used to describe a business relationship</p>	<p style="text-align: right;">Page 151</p> <p>1 Joseph Amato</p> <p>2 as a partner in the firm of the Alexander</p> <p>3 Capital, LP?</p> <p>4 A. I don't know how others may have --</p> <p>5 what they may have said, but I don't believe</p> <p>6 I have. I don't -- I don't recall.</p> <p>7 Q. Later on in the letter, it states,</p> <p>8 "In December of 2013, a full year after the</p> <p>9 last misconduct alleged by the staff, active</p> <p>10 control of the firm was sold to Messrs. Amato</p> <p>11 and Guidici Pietro." Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Now, is that statement contained in</p> <p>14 that letter, which was submitted to FINRA on</p> <p>15 behalf of Alexander Capital, is that, in your</p> <p>16 mind, a true statement as of that time?</p> <p>17 A. I don't -- I don't believe so. I</p> <p>18 don't think so, no.</p> <p>19 Q. What about it, in your mind, is not</p> <p>20 true or accurate, as of that time?</p> <p>21 A. The statement.</p> <p>22 Q. Okay. What part of it? Or all of</p> <p>23 it?</p> <p>24 A. I do believe we owned a portion</p> <p>25 after, but I don't believe we had active</p>
<p style="text-align: right;">Page 150</p> <p>1 Joseph Amato</p> <p>2 between two or more people who are in</p> <p>3 business together?</p> <p>4 A. I can't answer. I don't know. I</p> <p>5 don't know the situation, so, no, I couldn't</p> <p>6 answer that. It's too vague.</p> <p>7 Q. Not even in general?</p> <p>8 A. It's too vague for me.</p> <p>9 Q. Okay. You are familiar with the</p> <p>10 term "partner," however; is that right?</p> <p>11 A. My wife is my partner.</p> <p>12 Q. Okay. And have you ever described</p> <p>13 yourself, at any time of your association in</p> <p>14 Alexander Capital, LP, as a "partner in that</p> <p>15 firm," at any time?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you know if Mr. Guidici Pietro</p> <p>18 ever referred to himself at any time during</p> <p>19 the time he was involved with Alexander</p> <p>20 Capital, LP, referred to himself as a</p> <p>21 "partner in the firm"?</p> <p>22 A. I am uncertain.</p> <p>23 Q. And at any time, are you aware as</p> <p>24 to whether anyone associated with Nesa</p> <p>25 Management referred to Nesa Management, LLC,</p>	<p style="text-align: right;">Page 152</p> <p>1 Joseph Amato</p> <p>2 control of the firm.</p> <p>3 Q. Okay. And at any time did you --</p> <p>4 is it your understanding that you and Mr.</p> <p>5 Guidici Pietro took active control of the firm</p> <p>6 at sometime after?</p> <p>7 A. No.</p> <p>8 Q. Now, the footnote says, "A share</p> <p>9 having been previously sold to Mr. Figliolo,</p> <p>10 who has never had active control of any</p> <p>11 aspect of the firm" -- do you see that?</p> <p>12 A. I to.</p> <p>13 Q. Do you consider that to be a true</p> <p>14 statement?</p> <p>15 A. I don't know. I wasn't there when</p> <p>16 he was first there. I can't answer that.</p> <p>17 Q. How about during the time that you</p> <p>18 were there, at Alexander Capital, LP?</p> <p>19 A. I believe he was a passive owner</p> <p>20 all along.</p> <p>21 Q. Okay. Did you have any indication</p> <p>22 he was exercising any active control of</p> <p>23 Alexander Capital, LP, during the time you</p> <p>24 have been associated with Alexander Capital,</p> <p>25 LP?</p>

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<p style="text-align: right;">Page 153</p> <p>1 Joseph Amato</p> <p>2 A. I don't recall him to be, no.</p> <p>3 Q. It says in another footnote here,</p> <p>4 first sentence, "It is worth noting that</p> <p>5 FINRA approved the sale to new ownership and</p> <p>6 the change in management." Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. All right. Now, there are two</p> <p>9 things talked about, "the approval of the</p> <p>10 sale to new ownership," and "the change in</p> <p>11 management," all right?</p> <p>12 Now, regarding the approval of sale</p> <p>13 to new ownership, all right, is it your</p> <p>14 understanding that between 2012 and 2013,</p> <p>15 FINRA approved the sale of ownership to</p> <p>16 Exitus, owned by Mr. Figliolo? Is that your</p> <p>17 memory, that that occurred somewhere between</p> <p>18 2012 and 2013?</p> <p>19 A. I don't recall the exact dates.</p> <p>20 Q. But is that something that occurred</p> <p>21 in the past, around that time?</p> <p>22 A. Approximately, yes.</p> <p>23 Q. Okay. Now, it also talks about "a</p> <p>24 change in management." To your knowledge,</p> <p>25 was there approval for the change in</p>	<p style="text-align: right;">Page 155</p> <p>1 Joseph Amato</p> <p>2 manage Alexander Capital, LP?</p> <p>3 A. I don't recall.</p> <p>4 Q. Now in here it refers to Alexander</p> <p>5 taking certain preventive actions since this</p> <p>6 event that they are talking about. It states</p> <p>7 here, "Since 2013, the firm has taken several</p> <p>8 steps to prevent violations of the type</p> <p>9 raised in the notice letter." And it says,</p> <p>10 "As the most recent annual audits shows,</p> <p>11 these steps has worked. The firm has</p> <p>12 replaced personnel and strengthened its</p> <p>13 policies and procedures." Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Is it consistent with your memory</p> <p>16 that after this incident that was talked</p> <p>17 about previous to 2013, that since December</p> <p>18 2013, that in fact the firm replaced</p> <p>19 personnel? Were you aware of that?</p> <p>20 A. I don't recall. Have to see CRD.</p> <p>21 Q. I'm sorry, what was that?</p> <p>22 A. We would have to go to CRD. I</p> <p>23 don't recall.</p> <p>24 Q. Okay. How about the reference to</p> <p>25 the fact that since 2013, Alexander Capital</p>
<p style="text-align: right;">Page 154</p> <p>1 Joseph Amato</p> <p>2 management at Alexander Capital, LP, during</p> <p>3 the time that there was the approval of the</p> <p>4 sale to Exitus regarding its ownership</p> <p>5 interest?</p> <p>6 A. I wouldn't know.</p> <p>7 Q. Okay. To your mind, was there</p> <p>8 approval for the change in management between</p> <p>9 2012 and 2013?</p> <p>10 A. I don't know. I don't recall.</p> <p>11 Q. Are you aware as to whether as part</p> <p>12 of the FINRA's approval for the change of</p> <p>13 ownership from Exitus, owned by Mr. Figliolo,</p> <p>14 from Mr. Lanaia [sic], that there was also an</p> <p>15 approval for the change in management of</p> <p>16 Alexander Capital, LP?</p> <p>17 Are you not aware of that?</p> <p>18 A. I'm not aware.</p> <p>19 Q. Are you aware as to whether or not</p> <p>20 Alexander Capital -- whether FINRA approved</p> <p>21 yourself and Mr. Guidici Pietro, either</p> <p>22 directly or indirectly through Nesa</p> <p>23 Management, to manage -- approve a change so</p> <p>24 that you and Mr. Guidici Pietro, either</p> <p>25 directly or indirectly through Nesa, could</p>	<p style="text-align: right;">Page 156</p> <p>1 Joseph Amato</p> <p>2 strengthened its policies and procedures?</p> <p>3 Are you aware of the fact that since December</p> <p>4 2013, that Alexander Capital strengthened the</p> <p>5 policies and procedures that were in place</p> <p>6 before 2013?</p> <p>7 A. I can't speak to before. I wasn't</p> <p>8 at the firm. Only from when I was there.</p> <p>9 Q. Okay. Do you have any memory or</p> <p>10 understanding as to whether or not an attempt</p> <p>11 was made, after December 2013, to strengthen</p> <p>12 the policies and procedures at Alexander</p> <p>13 Capital, LP, or you have no such --</p> <p>14 A. I believe there was always policies</p> <p>15 and procedures.</p> <p>16 Q. You are aware that there was an</p> <p>17 attempt to do that?</p> <p>18 A. I believe there was an attachment</p> <p>19 to do so.</p> <p>20 Q. Okay. And can you describe for us</p> <p>21 what you understand to have been what was</p> <p>22 done, regarding strengthening the policies</p> <p>23 and procedures at Alexander Capital, after</p> <p>24 December 2013?</p> <p>25 A. Working with their attorneys and</p>

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<p style="text-align: right;">Page 157</p> <p>1 Joseph Amato</p> <p>2 regulatory to make sure to stay in line,</p> <p>3 strengthen your policies and procedures.</p> <p>4 Q. Okay. It then says "The new owners</p> <p>5 of the firm" -- now, in this letter they are</p> <p>6 referring to the new owners of the firm as</p> <p>7 yourself and Mr. Guidici Pietro, either</p> <p>8 directly or indirectly through Nesa. But</p> <p>9 they are describing that group, you and Mr.</p> <p>10 Guidici Pietro, either directly or indirectly</p> <p>11 through NESA, as the new owners of the firm,</p> <p>12 all right?</p> <p>13 Does that seem consistent with what</p> <p>14 I have gone over in this letter so far; that</p> <p>15 that's what they are saying?</p> <p>16 A. Possibly.</p> <p>17 Q. All right. And they said, "The new</p> <p>18 owners of the firm have made several</p> <p>19 substantial improvements to the firm's</p> <p>20 policies and procedures." Do you see that?</p> <p>21 A. I do see that.</p> <p>22 Q. Okay. Is it -- was it accurate to</p> <p>23 -- for Alexander Capital to say to FINRA in</p> <p>24 October of 2015, that the -- that yourself</p> <p>25 and Mr. Guidici Pietro, either directly or</p>	<p style="text-align: right;">Page 159</p> <p>1 Joseph Amato</p> <p>2 regarding what authority Alexander Capital</p> <p>3 had regarding the underwriting of an offering</p> <p>4 that a potential customer was seeking</p> <p>5 Alexander Capital to do?</p> <p>6 A. I would be unaware. I don't</p> <p>7 recall.</p> <p>8 Q. It says further here, "They have</p> <p>9 hired new supervisory personnel." "They"</p> <p>10 referring to you and Mr. Guidici Pietro, and</p> <p>11 -- either directly or indirectly through</p> <p>12 Nesa, that "They have hired new supervisory</p> <p>13 personnel. In particular, they now have a</p> <p>14 dedicated CCO," and you understand "CCO" to</p> <p>15 mean "chief compliance officer"; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. "Compared to the firm's previous</p> <p>19 practice of having a CEO, slash, CCO, as a</p> <p>20 result they have personnel dedicated to</p> <p>21 supervision and compliance who will ensure</p> <p>22 that the events alleged in the charges does</p> <p>23 not recur." Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. Okay. Now, is it accurate, in your</p>
<p style="text-align: right;">Page 158</p> <p>1 Joseph Amato</p> <p>2 indirectly through Nesa, made several</p> <p>3 substantial improvements to the firm's</p> <p>4 policies and procedures since December of</p> <p>5 2013?</p> <p>6 A. That's possible.</p> <p>7 Q. It says, "they," referring to the</p> <p>8 -- yourself and Mr. Guidici Pietro, either</p> <p>9 directly or indirectly through Nesa, "They</p> <p>10 have updated the firm's written supervisory</p> <p>11 policies and procedures, WSPs." Do you see</p> <p>12 that?</p> <p>13 A. I do.</p> <p>14 Q. Did you understand what the term</p> <p>15 "WSPs" to refer to the "supervisory policies</p> <p>16 and procedures" at the firm?</p> <p>17 A. I do.</p> <p>18 Q. And were you aware, in 2014 and</p> <p>19 2015, that there were written supervisory</p> <p>20 policies and procedures at the firm?</p> <p>21 A. Yes.</p> <p>22 Q. Were you aware as to whether or not</p> <p>23 any of those written supervisory policies and</p> <p>24 procedures had any -- focused in any way on</p> <p>25 what the firm should tell prospective clients</p>	<p style="text-align: right;">Page 160</p> <p>1 Joseph Amato</p> <p>2 opinion, that in October 2015, was it</p> <p>3 accurate to tell FINRA that you and Mr.</p> <p>4 Guidici Pietro, either directly or indirectly</p> <p>5 through Nesa, were responsible for the hiring</p> <p>6 of new supervisory personnel, including a</p> <p>7 dedicated chief compliance officer, and that</p> <p>8 as a result, that Alexander Capital has</p> <p>9 personnel dedicated to supervision and</p> <p>10 compliance that will ensure that there will</p> <p>11 be no repeat of violations of rules and</p> <p>12 regulations applying to the company?</p> <p>13 A. I don't recall at the time.</p> <p>14 Q. Would it -- well, based on your</p> <p>15 understanding as of that time, is that an</p> <p>16 accurate statement to make to FINRA, as of</p> <p>17 October 2015?</p> <p>18 A. I don't recall. It's many years</p> <p>19 back.</p> <p>20 Q. So you don't know, as you sit here</p> <p>21 today, whether that's an accurate statement</p> <p>22 to be made, as of 2015, to FINRA?</p> <p>23 A. I don't know how they were hired or</p> <p>24 the process of the hire. I do not know,</p> <p>25 correct.</p>

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<p style="text-align: right;">Page 161</p> <p>1 Joseph Amato</p> <p>2 Q. And you weren't involved in that?</p> <p>3 A. I don't recall.</p> <p>4 Q. Whether you were involved or not?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. When you say, you "don't</p> <p>7 recall," just to be clear, you are saying you</p> <p>8 don't recall being involved in any of these</p> <p>9 activities we just went over regarding the</p> <p>10 statement made in this letter on behalf of</p> <p>11 Alexander Capital, in 2015; is that correct?</p> <p>12 A. That's correct. I don't recall.</p> <p>13 Q. Okay. All right. It concludes by</p> <p>14 saying, "The firm is committed to fostering a</p> <p>15 culture of compliance and following the</p> <p>16 rules." Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And it says, "It clearly</p> <p>19 understands the message that FINRA is sending</p> <p>20 with this wells notice." Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. And it says, "It has addressed</p> <p>23 every item."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 163</p> <p>1 Joseph Amato</p> <p>2 Q. And following the rules?</p> <p>3 A. Yes.</p> <p>4 Q. Now, I am going to show you -- all</p> <p>5 right, I am going to show you what's</p> <p>6 previously been marked as Plaintiff's Exhibit</p> <p>7 60, and it's a draft of an engagement</p> <p>8 agreement. Do you recognize the Alexander</p> <p>9 Capital, LP letterhead?</p> <p>10 A. I do.</p> <p>11 Q. All right. And this is a draft of</p> <p>12 an engagement agreement, a proposed</p> <p>13 engagement agreement, that was taken from a</p> <p>14 previous engagement agreement draft involving</p> <p>15 Stream T.V. Networks, Inc. Do you see it's</p> <p>16 crossed out in this draft?</p> <p>17 A. I do.</p> <p>18 Q. Okay. Were you familiar, in 2015</p> <p>19 -- 2014, with Stream T.V. Networks, Inc.?</p> <p>20 A. I know the name.</p> <p>21 Q. Do you recognize that as a client</p> <p>22 of Alexander Capital, in 2014?</p> <p>23 A. I am uncertain of the time, but I</p> <p>24 believe they were an earlier client.</p> <p>25 Q. Do you have any memory or</p>
<p style="text-align: right;">Page 162</p> <p>1 Joseph Amato</p> <p>2 Q. Okay. Now, just regarding the</p> <p>3 statement, "The firm is committed to</p> <p>4 fostering a culture of compliance and</p> <p>5 following the rules," is that an accurate</p> <p>6 statement regarding what you understood the</p> <p>7 practices and procedures to be at Alexander</p> <p>8 Capital, in 2014 and 2015, that the --</p> <p>9 Alexander Capital was committed, during 2014</p> <p>10 and 2015, to foster a culture of compliance</p> <p>11 and following the rules that apply to it?</p> <p>12 A. I don't recall the prior policies</p> <p>13 and procedures or the changes made at this</p> <p>14 time. I don't recall.</p> <p>15 Q. Okay. But how about knowing what</p> <p>16 was in place in 2014 and 2015, do you -- can</p> <p>17 you tell us whether your -- that the</p> <p>18 statement that the firm, in 2015, was</p> <p>19 committed to fostering a culture of</p> <p>20 compliance and following the rules, was an</p> <p>21 accurate statement about what the firm was</p> <p>22 committed to at that time?</p> <p>23 A. I don't recall the rules at the</p> <p>24 time, but I agree we like to have culture</p> <p>25 compliance and follow the rules.</p>	<p style="text-align: right;">Page 164</p> <p>1 Joseph Amato</p> <p>2 understanding as to what services Alexander</p> <p>3 Capital provided Stream T.V. Networks?</p> <p>4 A. I don't recall, no.</p> <p>5 Q. Now, this is an engagement</p> <p>6 agreement that was a draft for Stream T.V.</p> <p>7 Networks. It was taken by Mr. -- it was</p> <p>8 given by Mr. Gazdak to Mr. Mooney, and then</p> <p>9 Mr. Mooney changed it in the ways indicated</p> <p>10 in red, in which he corrected the date to</p> <p>11 July 29, 2014. Do you see that? Over here</p> <p>12 in the right.</p> <p>13 A. I can only see July 29.</p> <p>14 Q. Okay. Let me just -- how about</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you see July 29, 2014?</p> <p>18 A. Now I do, yes.</p> <p>19 Q. Okay. You see it's addressed to</p> <p>20 Marshal Sterman, CEO of Alterix, Inc. Do you</p> <p>21 see that?</p> <p>22 A. I do.</p> <p>23 Q. And did you know Mr. Sterman or</p> <p>24 anyone associated with Alterix, Inc., at any</p> <p>25 time in 2014 and 2015?</p>

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<p style="text-align: right;">Page 165</p> <p>1 Joseph Amato</p> <p>2 A. No.</p> <p>3 Q. Ever have any communications with</p> <p>4 anyone representing Alexander -- excuse me,</p> <p>5 representing Alterix, also known as, Inpellis</p> <p>6 Inc. during 2014, 2015?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Now, in this draft, this proposed</p> <p>9 engagement agreement, to be sent to Mr.</p> <p>10 Sterman, the "re" is "proposed initial public</p> <p>11 offering."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. And it says, "Dear" -- and the</p> <p>15 previous person representing Stream T.V. is</p> <p>16 crossed out and Marshal is put in. Do you</p> <p>17 see that?</p> <p>18 A. I do.</p> <p>19 Q. All right. And, again, this is</p> <p>20 Plaintiff's Exhibit 60, if I have not already</p> <p>21 identified it.</p> <p>22 It says, "Dear Marshal" -- are we</p> <p>23 okay? All right.</p> <p>24 A. Yes.</p> <p>25 Q. "Dear Marshal, we are pleased to</p>	<p style="text-align: right;">Page 167</p> <p>1 Joseph Amato</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. All right. And it says -- states</p> <p>5 that "The underwriting agreement and related</p> <p>6 agreement shall contain such terms and</p> <p>7 conditions as are customarily contained in</p> <p>8 agreements of such character, and among other</p> <p>9 things, provide for the following:" And then</p> <p>10 it goes on. Now, just specifically in</p> <p>11 reference to this first paragraph, all right,</p> <p>12 you see that the letter states that it is</p> <p>13 Alexander Capital's intent, immediately prior</p> <p>14 to the effective date of the proposed</p> <p>15 offering for Alterix, to enter into an</p> <p>16 exclusive underwriting agreement in which</p> <p>17 Alexander Capital will act as the agent for</p> <p>18 Alterix, Inc., also known as Inpellis, on a</p> <p>19 firm commitment basis. Is that a fair</p> <p>20 description of what that paragraph is</p> <p>21 stating?</p> <p>22 A. That's what the line reads.</p> <p>23 Q. Okay. Now, as of July 2014, based</p> <p>24 on your previous testimony, and I am asking</p> <p>25 you now personally.</p>
<p style="text-align: right;">Page 166</p> <p>1 Joseph Amato</p> <p>2 submit the following proposal with respect to</p> <p>3 an initial public offering, the public</p> <p>4 offering, by Alterix Inc., the company, of up</p> <p>5 to \$20 million, consisting of the company's</p> <p>6 common shares, the price and terms of which</p> <p>7 will be determined by the market price prior</p> <p>8 to the effective date of the offering</p> <p>9 closing." Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. Okay. This letter states certain</p> <p>12 conditions and assumptions upon the proposed</p> <p>13 offering by Alexander Capital, LP. Do you</p> <p>14 see that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, it states, "It is our intent,"</p> <p>17 referring to Alexander Capital, LP, "It is</p> <p>18 Alexander Capital's intent, immediately prior</p> <p>19 to the effective date, to enter into an</p> <p>20 exclusive underwriting agreement, the</p> <p>21 underwriting agreement, with the company, in</p> <p>22 this case Alterix Inc., the underwriter</p> <p>23 broker, referring to Alexander Capital, LP,</p> <p>24 will act as agent on a, quote, 'firm</p> <p>25 commitment', end quote, basis."</p>	<p style="text-align: right;">Page 168</p> <p>1 Joseph Amato</p> <p>2 A. Sure.</p> <p>3 Q. Okay. Was it your understanding</p> <p>4 that the membership agreement between</p> <p>5 Alexander Capital and FINRA, as of that time,</p> <p>6 did not authorize Alexander Capital to act as</p> <p>7 an underwriter broker on a firm commitment</p> <p>8 basis in an offer?</p> <p>9 A. So this is a draft agreement.</p> <p>10 Q. That's right.</p> <p>11 A. Draft agreement. I am confused</p> <p>12 with the question. You are asking about a</p> <p>13 different document?</p> <p>14 Q. No, no, I am -- what I am asking</p> <p>15 is: As of the time that this proposed</p> <p>16 document was drafted, is it true, according</p> <p>17 to your personal knowledge, that at the time</p> <p>18 of this draft, that the following was true:</p> <p>19 That under the membership agreement with</p> <p>20 FINRA, Alexander Capital was not authorized</p> <p>21 to act as the underwriter broker on behalf of</p> <p>22 a company on a firm commitment basis?</p> <p>23 Is that true or not true?</p> <p>24 A. I don't recall the date on the firm</p> <p>25 commitment portion, but please pull to the</p>

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<p style="text-align: right;">Page 169</p> <p>1 Joseph Amato</p> <p>2 top of this document.</p> <p>3 Q. Of course.</p> <p>4 A. I would like to see -- so this was</p> <p>5 Alterix writing to us?</p> <p>6 Q. No, no, no.</p> <p>7 A. This is us?</p> <p>8 Q. This is Alexander Capital writing</p> <p>9 to proposed -- it's a proposed draft to be</p> <p>10 provided to Alterix from Alexander Capital.</p> <p>11 A. This isn't an agreement. It's a</p> <p>12 draft that they are working on, a working</p> <p>13 draft?</p> <p>14 Q. Correct.</p> <p>15 A. Okay.</p> <p>16 Q. So --</p> <p>17 A. So I don't recall the dates of when</p> <p>18 we discussed earlier, the exact dates.</p> <p>19 Q. Well, those things that we</p> <p>20 discussed occurred in 2015. This is now</p> <p>21 2014.</p> <p>22 A. Right, I don't -- I don't remember</p> <p>23 the date of the letters and the discussion we</p> <p>24 had prior.</p> <p>25 Q. Okay. Those letters -- I'm sorry,</p>	<p style="text-align: right;">Page 171</p> <p>1 Joseph Amato</p> <p>2 Q. And in 2015, correct?</p> <p>3 A. Sure.</p> <p>4 Q. Okay. And in May of 2015, we've</p> <p>5 already established that -- that FINRA</p> <p>6 notified Alexander Capital that they would</p> <p>7 have to get approval to be the underwriter in</p> <p>8 a firm commitment offering; is that true?</p> <p>9 A. In 2015? I don't recall. This is</p> <p>10 2014, so I don't recall. I didn't read the</p> <p>11 letters. I don't recall.</p> <p>12 Q. No, okay. But I want to be clear</p> <p>13 here that what we went over previously --</p> <p>14 A. Yes.</p> <p>15 Q. -- the unreasonable letter from</p> <p>16 FINRA occurred in May of 2015, and the</p> <p>17 application to get approval to conduct firm</p> <p>18 commitment offerings, the so-called CMA,</p> <p>19 continuing membership application, was in</p> <p>20 June 3, 2015, and the restriction letter of</p> <p>21 June 11, 2015, regarding what Alexander</p> <p>22 Capital could do and could not do while its</p> <p>23 application was pending, was, approximately,</p> <p>24 just shy of a year after this proposed draft</p> <p>25 that we're talking about, okay?</p>
<p style="text-align: right;">Page 170</p> <p>1 Joseph Amato</p> <p>2 were you going to say something?</p> <p>3 A. No.</p> <p>4 Q. I didn't mean to talk over you. I</p> <p>5 apologize. The dates of the unreasonable</p> <p>6 letter and the FINRA restriction letter that</p> <p>7 we went over previously, was May of 2015 and</p> <p>8 June of 2015, a year later, okay, after this.</p> <p>9 So what I am asking, as of this --</p> <p>10 the date of this proposed draft to be given</p> <p>11 to Alterix, I am asking, as of that time</p> <p>12 period, to your knowledge, in 2014, at this</p> <p>13 time, is it true that under the membership</p> <p>14 agreement with -- that Alexander Capital had</p> <p>15 with FINRA, that under that agreement,</p> <p>16 Alexander Capital was not authorized to act</p> <p>17 as the underwriter, slash, broker for a</p> <p>18 company on a firm commitment basis; is that</p> <p>19 true?</p> <p>20 A. I don't recall at that time frame</p> <p>21 in '14.</p> <p>22 Q. And -- well, you know that</p> <p>23 Alexander Capital had a membership agreement</p> <p>24 in 2014, correct?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 172</p> <p>1 Joseph Amato</p> <p>2 Does that help you put it, you</p> <p>3 know, in your mind what we were talking about</p> <p>4 previously, and where this letter appears in</p> <p>5 time? Does that help?</p> <p>6 A. Again, it's a proposed draft, so I</p> <p>7 don't know.</p> <p>8 Q. Okay, but I am not asking about the</p> <p>9 proposed draft right now. What I am asking,</p> <p>10 though, as of the time of this proposed</p> <p>11 draft, which is July 2014, I am asking,</p> <p>12 specifically, whether it is true that you</p> <p>13 understood, as of that time, July of 2014,</p> <p>14 that Alexander Capital, under its membership</p> <p>15 agreement with FINRA, was not authorized to</p> <p>16 act as an underwriter, slash, broker on an</p> <p>17 offering on a firm commitment basis?</p> <p>18 A. In 2014, I don't recall.</p> <p>19 Q. What you knew or didn't know?</p> <p>20 A. I don't recall at the time,</p> <p>21 correct.</p> <p>22 Q. All right. In 2015, did you become</p> <p>23 aware that that was true, that Alexander</p> <p>24 Capital, under its membership agreement, was</p> <p>25 not authorized to be the underwriter broker</p>

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<p style="text-align: right;">Page 173</p> <p>1 Joseph Amato</p> <p>2 on a firm commitment basis?</p> <p>3 A. At some point, yes, with the</p> <p>4 letter.</p> <p>5 Q. That we talked about previously,</p> <p>6 the unreasonable letter, and the application,</p> <p>7 and the restriction letter from FINRA; is</p> <p>8 that what you are referring to?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Now, I am going to ask</p> <p>11 you as the designee of Alexander Capital. Is</p> <p>12 it true, as of the date of this -- in the</p> <p>13 time period of this proposed draft, that the</p> <p>14 following was true. And I am asking you now</p> <p>15 as designee of Alexander Capital. That</p> <p>16 Alexander Capital was not authorized, under</p> <p>17 its membership in FINRA, to act as an</p> <p>18 underwriter broker on an offering on a firm</p> <p>19 commitment basis?</p> <p>20 A. As to what time?</p> <p>21 Q. As of the time of this draft in</p> <p>22 July 2014?</p> <p>23 A. I don't believe so, at that time.</p> <p>24 Q. That it was authorized to do so?</p> <p>25 A. I believe we did firm deals at that</p>	<p style="text-align: right;">Page 175</p> <p>1 Joseph Amato</p> <p>2 A. Right.</p> <p>3 Q. Is it true that under the terms of</p> <p>4 the membership that Alexander Capital, LP had</p> <p>5 with FINRA, as of this time frame, July 2014,</p> <p>6 that the terms of that membership did not</p> <p>7 authorize Alexander Capital to act as an</p> <p>8 underwriter on an offering on a firm</p> <p>9 commitment basis; is that true?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Now, when you say, "I don't believe</p> <p>12 so," you don't believe that they were not --</p> <p>13 do you not believe they were authorized? Is</p> <p>14 that what you are saying?</p> <p>15 A. No, I thought we were able to</p> <p>16 participate. I thought we couldn't be the</p> <p>17 sole underwriter, after we found that out.</p> <p>18 Q. Okay, but again, I am asking you as</p> <p>19 the Alexander Capital's designee, about what</p> <p>20 Alexander Capital, the company, knew, not</p> <p>21 what you personally knew, all right?</p> <p>22 A. Right.</p> <p>23 Q. Okay. So I just want to be clear</p> <p>24 on that, as designee of Alexander Capital,</p> <p>25 LP, regarding the underwriting authority that</p>
<p style="text-align: right;">Page 174</p> <p>1 Joseph Amato</p> <p>2 time, up until -- I don't know what year.</p> <p>3 Q. Okay, but I am not asking whether</p> <p>4 you were doing them. I am asking very</p> <p>5 specifically as designee of Alexander</p> <p>6 Capital, is it true that as of July 2014, all</p> <p>7 right, that time frame, it was true that</p> <p>8 Alexander Capital, under the terms of its</p> <p>9 membership in FINRA, did not have the</p> <p>10 authority to act as an underwriter, slash,</p> <p>11 broker on a firm commitment basis?</p> <p>12 A. I don't know if we were</p> <p>13 underwriter, we were able to participate as</p> <p>14 broker.</p> <p>15 Q. Okay, I'm asking as an underwriter.</p> <p>16 A. You asked underwriter/broker.</p> <p>17 Q. Okay. So now I am asking as an</p> <p>18 underwriter.</p> <p>19 A. As an underwriter, I thought we</p> <p>20 were able to participate.</p> <p>21 Q. Okay. Now, remember, I am asking</p> <p>22 you now as designee of Alexander Capital, LP,</p> <p>23 all right?</p> <p>24 So now you are -- I am asking as</p> <p>25 designee.</p>	<p style="text-align: right;">Page 176</p> <p>1 Joseph Amato</p> <p>2 Alexander Capital had during this period of</p> <p>3 time, I am asking you this question: Is it</p> <p>4 true, as of July 2014, that under the terms</p> <p>5 of the membership agreement between Alexander</p> <p>6 Capital and FINRA, that Alexander Capital was</p> <p>7 not authorized to act as the underwriter in</p> <p>8 an offering on a firm commitment basis?</p> <p>9 A. As the sole underwriter, I don't</p> <p>10 believe so.</p> <p>11 Q. All right. And it was not</p> <p>12 authorized as the sole underwriter?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Did you believe, personally,</p> <p>15 that Alexander Capital -- as of July 2014,</p> <p>16 that Alexander Capital could act as the</p> <p>17 underwriter on a firm commitment basis in an</p> <p>18 offering as of that time under its FINRA</p> <p>19 membership agreement?</p> <p>20 A. I thought we were able to</p> <p>21 participate, yes.</p> <p>22 Q. As among one of several</p> <p>23 underwriters?</p> <p>24 A. If we participate, we would be</p> <p>25 considered, I guess, part of the underwriter.</p>

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<p style="text-align: right;">Page 177</p> <p>1 Joseph Amato</p> <p>2 That was my assumption.</p> <p>3 Q. Right. Okay. But I want to be</p> <p>4 very specific here. Are you saying that you</p> <p>5 understood they couldn't act as the sole</p> <p>6 underwriter of an offering, but you thought</p> <p>7 they could act as an -- a -- one of other</p> <p>8 underwriters? Is that --</p> <p>9 A. Right.</p> <p>10 Q. -- what you're saying?</p> <p>11 Was it your understanding that the</p> <p>12 -- as to whether or not the other</p> <p>13 underwriters had to be qualified to do firm</p> <p>14 commitment offerings?</p> <p>15 A. I don't -- I can't speak for</p> <p>16 others. I don't know.</p> <p>17 Q. All right. Well, I want to be very</p> <p>18 clear here. Was it your understanding -- I</p> <p>19 am asking you personally -- that Alexander</p> <p>20 Capital, in 2014, could be one of -- of --</p> <p>21 could be one underwriter, so long as there</p> <p>22 was other underwriters involved in a firm</p> <p>23 commitment offering?</p> <p>24 Is that what you are saying?</p> <p>25 A. I thought we were able to</p>	<p style="text-align: right;">Page 179</p> <p>1 Joseph Amato</p> <p>2 A. I don't recall if it was '14 or</p> <p>3 '15.</p> <p>4 Q. Okay, again, I am asking -- what is</p> <p>5 it that you don't recall whether it was '14</p> <p>6 or '15?</p> <p>7 A. The answer to your question. I</p> <p>8 don't recall.</p> <p>9 Q. All right, again, I want to --</p> <p>10 A. As the firm, I don't recall.</p> <p>11 Q. As the firm, the firm does not --</p> <p>12 you cannot answer as designee of the firm, as</p> <p>13 to -- because you are saying, "I don't</p> <p>14 recall," and I am asking you as the designee.</p> <p>15 Are you saying that the company</p> <p>16 cannot recall?</p> <p>17 A. I don't recall if it was '14 or</p> <p>18 '15. I don't recall.</p> <p>19 Q. Okay. And so what occurred in</p> <p>20 2015?</p> <p>21 A. The letter that came to the firm.</p> <p>22 Q. Okay. As of July 2014, there was</p> <p>23 in existence -- and I am asking you as a</p> <p>24 designee, Alexander Capital had in existence</p> <p>25 in July 2014, a membership agreement with</p>
<p style="text-align: right;">Page 178</p> <p>1 Joseph Amato</p> <p>2 participate as part of that.</p> <p>3 Q. Okay. And was it your</p> <p>4 understanding that that could happen if the</p> <p>5 other underwriters were qualified to do firm</p> <p>6 commitment underwritings?</p> <p>7 Is that what you're saying?</p> <p>8 A. I don't know if they all would be.</p> <p>9 I can't answer for others. I know we -- I</p> <p>10 thought we were allowed to as the entity.</p> <p>11 Q. You were allowed to, so long as</p> <p>12 someone -- some other underwriter who was</p> <p>13 involved had the authority to act as a firm</p> <p>14 commitment -- on a firm commitment basis? Is</p> <p>15 that what you're saying?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, as Alexander Capital's</p> <p>18 designee, I just want to be clear here, was</p> <p>19 it -- did -- was it -- is it true that</p> <p>20 Alexander Capital, LP, as of July 2014, knew</p> <p>21 that under its -- the terms of its membership</p> <p>22 with FINRA, that it could not act as an</p> <p>23 underwriter listed in an offering as the</p> <p>24 underwriter, conducting the underwriting on a</p> <p>25 firm commitment basis?</p>	<p style="text-align: right;">Page 180</p> <p>1 Joseph Amato</p> <p>2 FINRA; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And is it true that</p> <p>5 that membership agreement which it had in</p> <p>6 place in 2014, all right, was the same</p> <p>7 agreement that it had in place in 2015?</p> <p>8 A. I am not 100 percent certain. It's</p> <p>9 possible. I don't recall.</p> <p>10 Q. Okay. Now I am asking you as</p> <p>11 designee.</p> <p>12 Are you -- as designee, was there</p> <p>13 -- was the underwriting agreement in place in</p> <p>14 2014, the same underwriting agreement with</p> <p>15 FINRA in 2015, or was there a change between</p> <p>16 those two years?</p> <p>17 A. I don't recall when the change --</p> <p>18 any -- the change came in. That's what I am</p> <p>19 saying.</p> <p>20 Q. Okay, but we just -- I believe we</p> <p>21 went over this earlier and --</p> <p>22 MR. WARD: Can we take a</p> <p>23 break right now?</p> <p>24 MR. SCHLICHTMANN: Sure.</p> <p>25 Maybe that'll be helpful. Sure.</p>

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<p style="text-align: right;">Page 181</p> <p>1 Joseph Amato</p> <p>2 Let's take a break. Let's take a</p> <p>3 few minutes. Take whatever.</p> <p>4 MR. WARD: Yeah.</p> <p>5 MR. SCHLICHTMANN: I will</p> <p>6 stand by. I appreciate that.</p> <p>7 THE VIDEOGRAPHER: Going off</p> <p>8 video record. The time is 2:23</p> <p>9 p.m.</p> <p>10 (Whereupon, a recess was</p> <p>11 taken at this time.)</p> <p>12 THE VIDEOGRAPHER: Back on</p> <p>13 video record. The time is 2:29</p> <p>14 p.m.</p> <p>15 BY MR. SCHLICHTMANN:</p> <p>16 Q. All right, I have been asking a</p> <p>17 series of questions, Mr. Amato, and just to</p> <p>18 be clear on the record, I have been referring</p> <p>19 to a July 2014 draft of a letter, and just</p> <p>20 for purposes of the record, I have been</p> <p>21 referring to that as Plaintiff's previously</p> <p>22 -- previously been marked as Plaintiff's</p> <p>23 Exhibit 60, all right? I know that sound</p> <p>24 because --</p> <p>25 A. Someone has a pitbull.</p>	<p style="text-align: right;">Page 183</p> <p>1 Joseph Amato</p> <p>2 after 2013, certain procedures were put in</p> <p>3 place to ensure an appropriate compliance</p> <p>4 environment, and that the rules were being</p> <p>5 followed?</p> <p>6 Do you remember that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And you said that you were</p> <p>9 aware that there were procedures, if I</p> <p>10 understood you correctly, that were put in</p> <p>11 place to ensure an environment of compliance</p> <p>12 in following the rules.</p> <p>13 Did I understand you correctly?</p> <p>14 A. I said I just didn't recall what</p> <p>15 they were, but there were procedures in</p> <p>16 place, yes.</p> <p>17 Q. All right. As of July 2014, and I</p> <p>18 am asking you personally, as of July 2014,</p> <p>19 were you aware as to whether the policies and</p> <p>20 procedures that we talked about that were put</p> <p>21 in place, required anyone from Alexander</p> <p>22 Capital who is interacting with a potential</p> <p>23 client of Alexander Capital, regarding</p> <p>24 Alexander Capital's providing services to the</p> <p>25 company as an underwriter in an anticipated</p>
<p style="text-align: right;">Page 182</p> <p>1 Joseph Amato</p> <p>2 Q. I recently -- we recently purchased</p> <p>3 a puppy. I know that sound.</p> <p>4 The -- so I want to ask you --</p> <p>5 again, to be clear, that -- and I am asking</p> <p>6 you in your capacity as the designee of</p> <p>7 Alexander Capital, is it true, as of July</p> <p>8 2014, that the membership agreement with</p> <p>9 FINRA, that Alexander Capital had, did not</p> <p>10 authorize it to be the underwriter of an</p> <p>11 offering on a firm commitment basis; is that</p> <p>12 correct? It could not be the underwriter on</p> <p>13 a firm commitment offering as of that time in</p> <p>14 July 2014; is that correct?</p> <p>15 A. I believe we couldn't be the sole</p> <p>16 underwriter.</p> <p>17 Q. Okay. Now, the -- as of July 2014,</p> <p>18 and I am asking you personally, was it your</p> <p>19 understanding, as to whether or not in</p> <p>20 accordance with the procedures that were put</p> <p>21 in place at Alexander Capital, as of 2014,</p> <p>22 that we discussed previously -- let me just</p> <p>23 preface it by saying, you remember previously</p> <p>24 we discussed that there were -- that a</p> <p>25 statement was made to FINRA in 2015, that</p>	<p style="text-align: right;">Page 184</p> <p>1 Joseph Amato</p> <p>2 offering, whether the policies and procedures</p> <p>3 in place at that time would have required an</p> <p>4 Alexander Capital employee to inform the</p> <p>5 company, prior to entering into an engagement</p> <p>6 agreement, as to the authority that Alexander</p> <p>7 Capital had under its membership agreement,</p> <p>8 and the authority it did not have under its</p> <p>9 engagement agreement regarding firm</p> <p>10 commitment underwriting?</p> <p>11 A. I don't recall.</p> <p>12 Q. When you say, "I don't recall," you</p> <p>13 don't recall if there were any procedures</p> <p>14 that would have required an employee of</p> <p>15 Alexander Capital, under those circumstances,</p> <p>16 to inform a potential client that -- what</p> <p>17 Alexander Capital was allowed to do as</p> <p>18 underwriter and what it was not allowed to do</p> <p>19 as of that time? Is that what you are</p> <p>20 saying?</p> <p>21 A. Yes, I don't recall.</p> <p>22 Q. All right. As the designee of</p> <p>23 Alexander Capital, did Alexander Capital have</p> <p>24 in place policies and procedures that would</p> <p>25 have required an employee of Alexander</p>

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<p style="text-align: right;">Page 185</p> <p>1 Joseph Amato</p> <p>2 Capital who was dealing with a proposed</p> <p>3 client regarding an intended offering, to</p> <p>4 inform that company, prior to entering into</p> <p>5 any engagement agreement in which Alexander</p> <p>6 Capital intended to be the underwriter on a</p> <p>7 firm commitment basis, that the employee was</p> <p>8 required to inform the company of the fact</p> <p>9 that the -- that the authorization that</p> <p>10 Alexander Capital had with FINRA did not</p> <p>11 allow it to enter into such firm commitment</p> <p>12 offerings?</p> <p>13 MR. WARD: Object as outside</p> <p>14 the scope. This -- we did not get</p> <p>15 through procedures -- I am not --</p> <p>16 that's not under the scope of what</p> <p>17 he is here to testify.</p> <p>18 MR. SCHLICHTMANN: Well, I</p> <p>19 don't want to fight over it. You</p> <p>20 don't think it goes to the -- the</p> <p>21 underwriting -- well, what's the</p> <p>22 phrase we used in the notice?</p> <p>23 MR. WARD: "Financial</p> <p>24 ability and legal authority to</p> <p>25 undertake underwriting, whether</p>	<p style="text-align: right;">Page 187</p> <p>1 Joseph Amato</p> <p>2 A. Correct.</p> <p>3 Q. All right. Now, in your capacity</p> <p>4 as the indirect owner of Alexander Capital</p> <p>5 through Nesa Management LLC, did you -- was</p> <p>6 it your understanding that Alexander Capital</p> <p>7 employees who were interacting with potential</p> <p>8 customers interested in Alexander Capital</p> <p>9 providing underwriting services, that if the</p> <p>10 intended underwriting was to involve an</p> <p>11 Alexander Capital acting as the underwriter</p> <p>12 on a firm commitment basis, that it was</p> <p>13 required of those employees who were so</p> <p>14 interacting with the company, to inform the</p> <p>15 company that Alexander Capital's agreement</p> <p>16 with FINRA did not authorize it to act as a</p> <p>17 firm commitment underwriter?</p> <p>18 A. I don't recall.</p> <p>19 Q. When you say you don't recall, you</p> <p>20 mean you don't recall whether you had an</p> <p>21 understanding such as that?</p> <p>22 A. I don't recall what the procedures.</p> <p>23 I said I don't recall.</p> <p>24 Q. All right, now what I am asking you</p> <p>25 is your -- as the -- you don't recall what</p>
<p style="text-align: right;">Page 186</p> <p>1 Joseph Amato</p> <p>2 characterized as best efforts or</p> <p>3 firm commitment."</p> <p>4 MR. SCHLICHTMANN: Okay, and</p> <p>5 you don't want me to ask him if --</p> <p>6 that it's outside of the scope to</p> <p>7 ask him about whether Alexander</p> <p>8 Capital employees had a requirement</p> <p>9 to inform potential customers? Is</p> <p>10 that what you are saying now?</p> <p>11 Okay.</p> <p>12 MR. WARD: Yeah, I mean, we</p> <p>13 have not prepared him to go through</p> <p>14 the procedures.</p> <p>15 MR. SCHLICHTMANN: Okay, got</p> <p>16 it. I will not -- that's fine.</p> <p>17 Q. Based on your -- as of July 2014,</p> <p>18 is it fair to say that you had -- you were a</p> <p>19 -- you had an ownership interest in Alexander</p> <p>20 Capital, through your ownership of Nesa</p> <p>21 Management, LLC; is that correct?</p> <p>22 A. Nesa had ownership in Alexander at</p> <p>23 the time.</p> <p>24 Q. And you owned, with Mr.</p> <p>25 Guidici Pietro, Nesa Management?</p>	<p style="text-align: right;">Page 188</p> <p>1 Joseph Amato</p> <p>2 procedures were, in your capacity as indirect</p> <p>3 owner through Nesa, did you believe or</p> <p>4 understand that in fact Alexander Capital</p> <p>5 employees were required to do that, or you</p> <p>6 had no such understanding?</p> <p>7 A. I have no such understanding. I</p> <p>8 didn't interact with that department. It's</p> <p>9 not what I did. I don't know.</p> <p>10 Q. Okay. Now at some point you said</p> <p>11 that you did become CEO of Alexander Capital</p> <p>12 for some time; is that right?</p> <p>13 A. Correct.</p> <p>14 Q. And according to the -- bear with</p> <p>15 me one second. All right, so I am going to</p> <p>16 -- because I know we've had some questions</p> <p>17 about it and you were unsure about your</p> <p>18 memory, bear with me, I am going to put up on</p> <p>19 the board a document I showed you previously.</p> <p>20 I am now showing you the</p> <p>21 broker-check report referred to previously,</p> <p>22 Plaintiff's Exhibit 29.</p> <p>23 You see that on the screen?</p> <p>24 A. Uh-huh.</p> <p>25 Q. All right.</p>

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<p style="text-align: right;">Page 189</p> <p>1 Joseph Amato</p> <p>2 A. I do.</p> <p>3 Q. Okay. And now I am going to go to</p> <p>4 the page that refers to you, and this is page</p> <p>5 six of the document, and down at the bottom</p> <p>6 it goes onto the next page, you see it says,</p> <p>7 "Joseph Anthony Amato," and it has CRD</p> <p>8 number?</p> <p>9 A. I do.</p> <p>10 Q. Do you recognize that that's your</p> <p>11 CRD number?</p> <p>12 A. I am sure it is. I don't recognize</p> <p>13 it, though.</p> <p>14 Q. Okay. And it says, "Direct owners</p> <p>15 and executive officers," right, it's in</p> <p>16 answer to that question. It says, "Is this</p> <p>17 an individual?" And it says, "Yes, this is</p> <p>18 an individual." And then it says,</p> <p>19 "position," correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it lists ROP and CROP and SROP.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. But it also says "CEO." Do you see</p> <p>25 that?</p>	<p style="text-align: right;">Page 191</p> <p>1 Joseph Amato</p> <p>2 that's the case.</p> <p>3 Q. It says, "Does this owner direct</p> <p>4 the management or policies of the firm?" And</p> <p>5 the answer is "yes." Do you see that?</p> <p>6 A. I do see that.</p> <p>7 Q. Okay. Is that a -- to your mind,</p> <p>8 is that an accurate statement as to the fact</p> <p>9 that you direct the management or policies of</p> <p>10 the firm?</p> <p>11 A. No.</p> <p>12 Q. Did you ever direct the policies</p> <p>13 and management of the firm?</p> <p>14 A. I did.</p> <p>15 Q. In what period of time?</p> <p>16 A. I would have to go back to the full</p> <p>17 CRD to let you know that, when I held the</p> <p>18 titles and certain positions.</p> <p>19 Q. So when you held CEO, you did</p> <p>20 exercise direct management over the policies,</p> <p>21 management, or -- you did direct the</p> <p>22 management and policies of the firm?</p> <p>23 A. I did not.</p> <p>24 Q. When you were CEO?</p> <p>25 A. I did not.</p>
<p style="text-align: right;">Page 190</p> <p>1 Joseph Amato</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And -- and then it says,</p> <p>4 "position start date," and it says, "March</p> <p>5 20, 2013."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. All right. Is it -- was it -- is</p> <p>9 it accurate that as of March 2013, that your</p> <p>10 position at Alexander Capital, Inc., as</p> <p>11 indicated in this broker-check report, that</p> <p>12 you held a position of chief executive</p> <p>13 officer?</p> <p>14 A. No.</p> <p>15 Q. You know for a fact you did not?</p> <p>16 A. At three -- 2013, it says my</p> <p>17 position start date. I don't believe that's</p> <p>18 accurate and nor is the other --</p> <p>19 Q. The ROP, CROP, and SROP?</p> <p>20 A. I don't believe that to be correct</p> <p>21 either today.</p> <p>22 Q. Okay. But as of March 2013, was it</p> <p>23 accurate that you were the CEO of Alexander</p> <p>24 Capital, LP?</p> <p>25 A. I am not certain. I can't say</p>	<p style="text-align: right;">Page 192</p> <p>1 Joseph Amato</p> <p>2 Q. You didn't do it, even as CEO?</p> <p>3 A. No.</p> <p>4 Q. Okay. During the time that you</p> <p>5 were CEO, who directed the management or</p> <p>6 policies of the firm?</p> <p>7 A. The chief compliance officer.</p> <p>8 Q. So are you saying that this</p> <p>9 broker-check report is inaccurate, if one was</p> <p>10 to take from this report that as of March</p> <p>11 2013, you became the CEO of Alexander</p> <p>12 Capital, LP?</p> <p>13 A. I believe it may be.</p> <p>14 Q. It may be inaccurate?</p> <p>15 A. Correct.</p> <p>16 Q. Does that mean it may be accurate?</p> <p>17 A. Possibly. But I believe it to be</p> <p>18 inaccurate.</p> <p>19 Q. Okay. And during the time that you</p> <p>20 were CEO of Alexander Capital, let me ask you</p> <p>21 this: Do you remember being that position</p> <p>22 prior -- at any time between 2013, 2014, or</p> <p>23 2015?</p> <p>24 A. I do.</p> <p>25 Q. Holding that position?</p>

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1 Joseph Amato

2 A. Holding a position as CEO at some

3 point, I do.

4 Q. During that three-year period I

5 just went over?

6 A. Possibly. I don't know when and

7 what times and during. We'd have to look

8 that up.

9 Q. Okay. During the time that you

10 were CEO, okay, which you believe could be

11 between 2013 and 2015; is that correct?

12 A. Possibly.

13 Q. All right. Now, I am asking you

14 regarding that period of time, in your

15 understanding, CEO, was it your understanding

16 at that time and in that position, that

17 during the time that you were CEO, that it

18 was a requirement of any employee of

19 Alexander Capital who was interacting with a

20 potential customer who was seeking Alexander

21 Capital's services as an underwriter, to --

22 to undertake underwriting of an intended

23 offering on a firm commitment basis, that it

24 was the requirement of that employee to

25 inform the company that, in fact, Alexander

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1 Joseph Amato

2 Capital did not have under its membership

3 agreement with FINRA the authority to act as

4 an underwriter in an offering on a firm

5 commitment basis?

6 A. I wouldn't be certain.

7 Q. And why not?

8 A. I didn't write the policies.

9 Q. And you don't remember taking any

10 steps as CEO to implement policies that would

11 have required what I just said?

12 A. I didn't work with the banking

13 department for the most part. So, no, I

14 wouldn't -- I wouldn't have been the person,

15 no.

16 Q. So you have -- okay. So you

17 wouldn't have been -- all right. So even as

18 CEO, you are not aware of any policies or

19 procedures that would have required that

20 disclosure by someone from Alexander, to a

21 company seeking its services on a firm

22 commitment basis?

23 A. That's what I am saying, I wouldn't

24 -- I wasn't aware.

25 Q. Okay. Now, as the CEO, was it your

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1 Joseph Amato

2 understanding that it was appropriate or

3 inappropriate for someone from Alexander

4 Capital to tell a company seeking its service

5 as an underwriter during 2013, 2014 and 2015,

6 that Alexander Capital could act as the -- as

7 the underwriter of an offering on a firm

8 commitment basis? Was that appropriate or

9 inappropriate, in accordance with your

10 understanding, during that period?

11 A. I -- I -- I don't know. I don't

12 have an opinion on it either way.

13 Q. Now, as you sit here today, do you

14 have an opinion on it either way?

15 A. Today, we could tell someone we can

16 do firm commitments.

17 Q. Because you received that

18 authorization in 2017; is that right?

19 A. I don't know the date of the firm

20 -- we were able to participate in it all

21 along. So, again, how you present it,

22 whether sole or part of a group, I have

23 different feelings throughout the time frame

24 from then to now.

25 Q. Okay. So now specifically as to

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1 Joseph Amato

2 before you were given the authorization,

3 which I believe your prior testimony was

4 December -- was in 2017, all right, I think

5 we established that previously.

6 Does that sound right to you?

7 A. I don't recall but...

8 Q. Okay, it was definitely after 2013,

9 2014, and 2015; is that correct?

10 A. To do what?

11 Q. For Alexander Capital to have the

12 authorization to be the underwriter in a firm

13 commitment offering.

14 A. I believe so.

15 Q. All right. Now, confining ourself

16 to 2013, 2014, and 2015, what was your

17 understanding, as CEO, as to whether it was

18 appropriate, during that period, for an

19 employee of Alexander Capital to tell a

20 potential customer that Alexander Capital

21 could act as the -- as the underwriter on a

22 firm commitment basis of an offering, at that

23 time?

24 A. I wasn't necessarily the CEO for

25 those three years, so I can't answer that.

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<p style="text-align: right;">Page 197</p> <p>1 Joseph Amato</p> <p>2 Q. During the period that you were?</p> <p>3 A. So I didn't -- what period was</p> <p>4 that?</p> <p>5 Q. Well, you said it was likely you</p> <p>6 were CEO during that three-year period at</p> <p>7 some point?</p> <p>8 A. At some point, correct.</p> <p>9 Q. Okay. So I am asking during the</p> <p>10 period you were CEO, whatever that period</p> <p>11 was.</p> <p>12 A. What's the question?</p> <p>13 Q. Okay. Was it appropriate, during</p> <p>14 that time, for an employee of Alexander</p> <p>15 Capital to tell a potential customer who was</p> <p>16 seeking its services as an underwriter, that</p> <p>17 it -- and was seeking its services as an</p> <p>18 underwriter on a firm commitment basis, that</p> <p>19 Alexander Capital -- to inform that company</p> <p>20 that Alexander Capital did not have, at that</p> <p>21 time, the authorization under its FINRA</p> <p>22 agreement to act as the underwriter on a firm</p> <p>23 commitment basis?</p> <p>24 A. No.</p> <p>25 MR. WARD: Wait, hold on.</p>	<p style="text-align: right;">Page 199</p> <p>1 Joseph Amato</p> <p>2 dealing with a potential customer of the</p> <p>3 firm, who was seeking its services as an</p> <p>4 underwriter, was it appropriate for the</p> <p>5 Alexander Capital person interacting with</p> <p>6 that potential client to tell them that</p> <p>7 Alexander Capital could act as the</p> <p>8 underwriter on a firm commitment basis?</p> <p>9 MR. WARD: Objection; vague.</p> <p>10 Q. Was that appropriate or</p> <p>11 inappropriate?</p> <p>12 MR. WARD: Same objection.</p> <p>13 Q. Did you understand the question?</p> <p>14 A. I do.</p> <p>15 Q. Can you answer it?</p> <p>16 A. I -- I don't believe we had to say</p> <p>17 or not say. I don't believe we had to</p> <p>18 discuss it.</p> <p>19 Q. And as of now, do you believe that</p> <p>20 you have an obligation to discuss it with the</p> <p>21 -- what your authorization is?</p> <p>22 A. I don't believe we have to discuss</p> <p>23 it.</p> <p>24 Q. Okay. And now I believe in answer</p> <p>25 to some previous questions you -- was it your</p>
<p style="text-align: right;">Page 198</p> <p>1 Joseph Amato</p> <p>2 Objection. Vague.</p> <p>3 Q. Okay. So let me ask that question</p> <p>4 again.</p> <p>5 During the time that you were CEO,</p> <p>6 in whatever period it was, between 2013 and</p> <p>7 2015, was it appropriate for an employee of</p> <p>8 Alexander Capital to inform a potential</p> <p>9 client of the company who was seeking</p> <p>10 Alexander Capital's services as an</p> <p>11 underwriter, for that employee to tell that</p> <p>12 potential company that Alexander Capital had</p> <p>13 the authority, under its membership, that it</p> <p>14 had the legal authority to act as an</p> <p>15 underwriter on a firm commitment basis?</p> <p>16 Yeah, I will stop there.</p> <p>17 MR. WARD: Same objection.</p> <p>18 Q. Do you understand the question?</p> <p>19 A. You are asking me or Bryan?</p> <p>20 Q. No, no, no, I am asking you.</p> <p>21 A. You can repeat it again, then.</p> <p>22 Q. Not a problem.</p> <p>23 During the time that you were CEO</p> <p>24 between 2013 and 2015, was it appropriate for</p> <p>25 an employee of Alexander Capital, who was</p>	<p style="text-align: right;">Page 200</p> <p>1 Joseph Amato</p> <p>2 -- well, let me ask you.</p> <p>3 Was it your understanding in 2013</p> <p>4 and 2014, 2015, that Alexander Capital was</p> <p>5 acting or intending to act, excuse me,</p> <p>6 intending to act as an underwriter on a firm</p> <p>7 commitment basis in various offerings that it</p> <p>8 was participating in during that period of</p> <p>9 time?</p> <p>10 A. I don't recall saying that.</p> <p>11 Q. I am asking.</p> <p>12 A. Ask again.</p> <p>13 Q. Okay. Do you have an understanding</p> <p>14 as to whether Alexander Capital during 2013,</p> <p>15 2014, and 2015, was intending to act as the</p> <p>16 underwriter of offerings on a firm commitment</p> <p>17 basis, during that period of time?</p> <p>18 A. I believe -- I am not certain as to</p> <p>19 the time frame we participated.</p> <p>20 Q. You are saying you participated in</p> <p>21 firm commitment offerings?</p> <p>22 A. Correct.</p> <p>23 Q. Did you participate as the</p> <p>24 underwriter of that offering?</p> <p>25 A. I am uncertain as to what role we</p>

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<p style="text-align: right;">Page 201</p> <p>1 Joseph Amato</p> <p>2 played by us participating, what that is</p> <p>3 defined as. I am not certain.</p> <p>4 Q. Okay. And specifically as to</p> <p>5 acting as underwriter of the offering or</p> <p>6 intending to act as the underwriter, was it</p> <p>7 your understanding that Alexander Capital was</p> <p>8 -- had engagement agreements for offerings in</p> <p>9 which it intended to act as the underwriter</p> <p>10 for a firm commitment offering?</p> <p>11 A. I would be uncertain. I don't</p> <p>12 know.</p> <p>13 Q. Now, I showed you that previous</p> <p>14 exhibit regarding -- regarding the proposed</p> <p>15 engagement agreement. Do you remember that?</p> <p>16 A. The draft?</p> <p>17 Q. Yes.</p> <p>18 A. Okay.</p> <p>19 Q. All right. Are you aware of the</p> <p>20 fact that, in fact, an engagement agreement,</p> <p>21 similar to that, was entered into between</p> <p>22 Alexander Capital and Alterix? Are you aware</p> <p>23 of that?</p> <p>24 A. I haven't seen it, I don't believe.</p> <p>25 I may have during this, but I don't recall.</p>	<p style="text-align: right;">Page 203</p> <p>1 Joseph Amato</p> <p>2 conditions and assumptions upon the proposed</p> <p>3 offering by Alexander Capital, LP, Alexander</p> <p>4 Capital. It is our intent, immediately prior</p> <p>5 to the effective date, to enter into an</p> <p>6 exclusive underwriting agreement, the</p> <p>7 underwriting agreement with the company. The</p> <p>8 underwriter, slash, broker will act as agent</p> <p>9 on a firm commitment, quote, 'firm</p> <p>10 commitment', end quote, basis. The</p> <p>11 underwriting agreement and related agreement</p> <p>12 shall contain such terms and conditions as</p> <p>13 are customarily contained in agreements of</p> <p>14 such character, and among other things,</p> <p>15 provide the following," and it goes on.</p> <p>16 That paragraph appears to be very</p> <p>17 similar in language to the one we went over</p> <p>18 before, the proposed draft of an engagement</p> <p>19 agreement to be submitted to Mr. Sterman?</p> <p>20 A. I see what's there. I guess, I</p> <p>21 don't know, but I see what's in front of me,</p> <p>22 what you just read.</p> <p>23 Q. Does that appear -- we just went</p> <p>24 over it a few minutes ago. Does it appear to</p> <p>25 be similar to the proposed draft that we went</p>
<p style="text-align: right;">Page 202</p> <p>1 Joseph Amato</p> <p>2 Q. Okay, I am going to...okay. All</p> <p>3 right, do you see on the screen a faded</p> <p>4 letterhead of Alexander Capital? It's a</p> <p>5 black-and-white copy.</p> <p>6 A. I do.</p> <p>7 Q. And it's dated July 29, 2014, and</p> <p>8 Marshal Sterman, CEO, of Alterix is over to</p> <p>9 the left.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. It says, "proposed initial public</p> <p>13 offering."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. In looking at this paragraph, it --</p> <p>17 it is the -- let me read it to you. "We are</p> <p>18 pleased to submit the following proposal with</p> <p>19 respect to an initial public offering. The</p> <p>20 public offering by Alterix, the company, of</p> <p>21 up to \$20 million, consisting of the</p> <p>22 company's common shares, the price and terms</p> <p>23 of which shall be determined by the market</p> <p>24 price prior to the effective date of the</p> <p>25 offering closing. This letter states certain</p>	<p style="text-align: right;">Page 204</p> <p>1 Joseph Amato</p> <p>2 over previously?</p> <p>3 A. Possible.</p> <p>4 Q. All right.</p> <p>5 MR. WARD: This is Exhibit</p> <p>6 154, just for the record.</p> <p>7 Q. Thank you very much. For the</p> <p>8 record, it's Exhibit 154. And this is -- I</p> <p>9 will just go to the signature page. It's</p> <p>10 signed by Timothy Stack, chief compliance</p> <p>11 officer, and Mr. Sterman.</p> <p>12 A. Okay.</p> <p>13 Q. Okay. So this was entered into by</p> <p>14 Mr. Sterman and Mr. Stack, on behalf of</p> <p>15 Alexander Capital, in late July 2014, all</p> <p>16 right? You can accept that as true.</p> <p>17 Now, we've already established that</p> <p>18 -- and tell me if this is not correct, that</p> <p>19 as of the time that this engagement agreement</p> <p>20 was actually entered into, in late July 2014,</p> <p>21 the membership agreement with Alexander --</p> <p>22 that Alexander Capital had with FINRA, did</p> <p>23 not authorize Alexander Capital to be the</p> <p>24 underwriter in a firm commitment offering; is</p> <p>25 that correct?</p>

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<p style="text-align: right;">Page 205</p> <p>1 Joseph Amato</p> <p>2 A. I believe so.</p> <p>3 Q. All right. Now, I am going to now</p> <p>4 show you...okay, do you see on the screen,</p> <p>5 "August 5, 2015, Inpellis, DRS"? Do you see</p> <p>6 that?</p> <p>7 A. I do.</p> <p>8 Q. All right. And is it your</p> <p>9 understanding that "DRS" is a term --</p> <p>10 shorthand expression for "draft registration</p> <p>11 statement"?</p> <p>12 A. I -- I guess so. I didn't know,</p> <p>13 no.</p> <p>14 Q. Is it new to you?</p> <p>15 A. It is.</p> <p>16 Q. Okay. So I will show you</p> <p>17 Plaintiff's Exhibit 30, which is -- do you</p> <p>18 recognize the form of the Plaintiff's Exhibit</p> <p>19 30, as a form of a registration statement?</p> <p>20 A. It's an S-1.</p> <p>21 Q. An S-1. Okay. Is that familiar to</p> <p>22 you?</p> <p>23 A. Not -- a little bit.</p> <p>24 Q. In the course of your association</p> <p>25 with Alexander Capital, LP, I am assuming</p>	<p style="text-align: right;">Page 207</p> <p>1 Joseph Amato</p> <p>2 Q. Okay, we will take a break.</p> <p>3 A. All right. Thank you. Five</p> <p>4 minutes? Bathroom break.</p> <p>5 MR. SCHLICHTMANN: When you</p> <p>6 are back, that's fine, yes, of</p> <p>7 course.</p> <p>8 THE VIDEOGRAPHER: Going off</p> <p>9 video record. The time is 3:02</p> <p>10 p.m.</p> <p>11 (Whereupon, a recess was</p> <p>12 taken at this time.)</p> <p>13 THE VIDEOGRAPHER: Back on</p> <p>14 video record. Time is 3:07 p.m.</p> <p>15 BY MR. SCHLICHTMANN:</p> <p>16 Q. Mr. Amato, I am showing you</p> <p>17 Plaintiff's Exhibit 30, and it's a</p> <p>18 registration statement filed on a</p> <p>19 confidential basis on August 5, 2015,</p> <p>20 involving the Alterix, also known as,</p> <p>21 Inpellis offer, all right? I represent to</p> <p>22 you that that's what it is, okay?</p> <p>23 Now, prior to today, were you</p> <p>24 familiar with any of the offerings by</p> <p>25 Alterix, also known as, Inpellis Inc., that</p>
<p style="text-align: right;">Page 206</p> <p>1 Joseph Amato</p> <p>2 that you frequently would review or see</p> <p>3 registration statements for one reason or</p> <p>4 another?</p> <p>5 A. No. I wouldn't.</p> <p>6 Q. Okay. From time to time, would</p> <p>7 you?</p> <p>8 A. Not really.</p> <p>9 Q. But you are familiar with it?</p> <p>10 A. Not really.</p> <p>11 Q. All right. Well, in looking at</p> <p>12 this form, is that a form that you are in any</p> <p>13 way familiar with? That form, not the</p> <p>14 specific one.</p> <p>15 A. Not really.</p> <p>16 Q. Okay. Now, this is a registration</p> <p>17 statement that was filed on August 5, 2015,</p> <p>18 on a confidential basis with the SEC, all</p> <p>19 right? I want you to accept that that's</p> <p>20 true.</p> <p>21 A. By whom?</p> <p>22 Q. All right. It was by the issuer</p> <p>23 and underwriter.</p> <p>24 A. I didn't see that. I have to take</p> <p>25 a break, guys.</p>	<p style="text-align: right;">Page 208</p> <p>1 Joseph Amato</p> <p>2 were filed during the time that Alexander</p> <p>3 Capital was the intended underwriter of the</p> <p>4 offering?</p> <p>5 A. Not so much.</p> <p>6 Q. Do you have some memory of</p> <p>7 reviewing them, for any reason?</p> <p>8 A. No, I never review them.</p> <p>9 Q. Now, in this offering, which was</p> <p>10 filed in confidential basis on August 5,</p> <p>11 2015, on the second page it says, "This is a</p> <p>12 firm commitment initial public offering." Do</p> <p>13 you see that?</p> <p>14 A. I do.</p> <p>15 Q. Okay. And if we go to -- if we go</p> <p>16 to page 109 of the offering, all right, under</p> <p>17 the "underwriting" section -- do you see that</p> <p>18 on the screen?</p> <p>19 A. I do.</p> <p>20 Q. All right. It says that,</p> <p>21 "Alexander Capital is acting as the sole book</p> <p>22 running manager of the offering and as</p> <p>23 representative of the underwriters or the</p> <p>24 representative."</p> <p>25 Do you see that?</p>

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<p style="text-align: right;">Page 209</p> <p>1 Joseph Amato</p> <p>2 A. I do.</p> <p>3 Q. Okay. And it then says in the</p> <p>4 second paragraph -- it lists the</p> <p>5 underwriters, Alexander Capital, LP, is the</p> <p>6 sole underwriter; is that right?</p> <p>7 A. I don't see no dates on this, but</p> <p>8 it says Alexander Capital, LP, yeah.</p> <p>9 Q. Okay, but no other underwriter is</p> <p>10 listed; is that right?</p> <p>11 A. At this time, no.</p> <p>12 Q. It says, "The underwriters are</p> <p>13 committed to purchase all the shares of</p> <p>14 common stock offered by us, other than those</p> <p>15 covered by the option to purchase additional</p> <p>16 shares described below, if they purchase any</p> <p>17 shares." Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Okay. Now, is this -- the language</p> <p>20 that they are "committed to purchase all the</p> <p>21 shares offered by us," consistent with a firm</p> <p>22 commitment offering?</p> <p>23 A. I don't know.</p> <p>24 Q. You have no idea?</p> <p>25 A. I -- I -- I told you I have never</p>	<p style="text-align: right;">Page 211</p> <p>1 Joseph Amato</p> <p>2 we would not be the sole.</p> <p>3 Q. Okay. So -- so if Alexander</p> <p>4 Capital acted as the sole book-running</p> <p>5 manager of an offering, all right, that was a</p> <p>6 firm commitment offering, that that would be</p> <p>7 in violation of its term -- its agreement</p> <p>8 with FINRA as to what underwriting it could</p> <p>9 do or could not do as of 2015; is that</p> <p>10 correct?</p> <p>11 A. If we did so.</p> <p>12 Q. That's right.</p> <p>13 A. Yes. We did not do so, so...</p> <p>14 Q. If they intended to do so?</p> <p>15 A. You said if we did so, so the</p> <p>16 answer is, yeah, no, we didn't.</p> <p>17 Q. Okay. How about if they intended</p> <p>18 to do so?</p> <p>19 A. Intending isn't doing, so we</p> <p>20 wouldn't have been in violation.</p> <p>21 Q. So it's okay to have the intent to</p> <p>22 do it, according to you?</p> <p>23 A. I don't know. That would be up to</p> <p>24 my legal.</p> <p>25 Q. Okay. Well, you just gave us a --</p>
<p style="text-align: right;">Page 210</p> <p>1 Joseph Amato</p> <p>2 really seen these before.</p> <p>3 Q. Okay. You see where it says, "the</p> <p>4 sole" -- "as acting as the sole book-running</p> <p>5 manager of the offering"?</p> <p>6 A. I do.</p> <p>7 Q. And we saw at the beginning it said</p> <p>8 this is a firm committing offering, correct?</p> <p>9 A. I did.</p> <p>10 Q. All right. Now, based on your</p> <p>11 previous testimony, I take it now as the</p> <p>12 designee of Alexander Capital, I am asking</p> <p>13 you that as of August 2015, that -- is it</p> <p>14 true that under the FINRA terms of the</p> <p>15 agreement that Alexander Capital had with</p> <p>16 FINRA, that Alexander Capital was not</p> <p>17 authorized to act as a sole book-running</p> <p>18 manager of a firm commitment offering, as of</p> <p>19 that time; is that correct?</p> <p>20 A. We couldn't be the lead on</p> <p>21 underwriting.</p> <p>22 Q. But I am asking specific as to sole</p> <p>23 book-running manager, using the language in</p> <p>24 that offering.</p> <p>25 A. On a firm commitment underwriting,</p>	<p style="text-align: right;">Page 212</p> <p>1 Joseph Amato</p> <p>2 your belief, so I am asking your</p> <p>3 understanding. Let me ask: As designee of</p> <p>4 the Alexander Capital, it is true, just to</p> <p>5 make it clear, as of August of 2015, that</p> <p>6 Alexander Capital was not authorized to --</p> <p>7 under its agreement with FINRA, to act as the</p> <p>8 sole book running -- book-running manager of</p> <p>9 a firm commitment offering? That is true,</p> <p>10 that they were not authorized to engage in</p> <p>11 such underwriting, correct?</p> <p>12 A. No, we were not authorized to do</p> <p>13 such, is my understanding.</p> <p>14 Q. To do -- to be the sole</p> <p>15 book-running manager of a firm committing</p> <p>16 offering, as of August of 2015?</p> <p>17 A. To do an offering.</p> <p>18 Q. That's right, a firm commitment</p> <p>19 offering.</p> <p>20 A. To complete a firm commitment</p> <p>21 offering.</p> <p>22 Q. All right. Now, do you think that</p> <p>23 Alexander Capital, as of August 2015 -- was</p> <p>24 it your understanding that it had an</p> <p>25 obligation to inform any company that thought</p>

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2 that it was working for -- that thought that

3 it was acting as the -- was under the

4 impression that it was acting -- intended to

5 act as the sole book-running manager of a

6 firm commitment offering, that Alexander

7 Capital should inform that company that

8 Alexander Capital did not have the authority

9 to so act?

10 A. No, I don't believe so. I don't

11 believe we had to -- we didn't put this book

12 together. We didn't file this. The company

13 filed this.

14 Q. Okay. And are you saying there

15 that because Alexander Capital, according to

16 you -- according to you, because this

17 offering was, according to you, made by the

18 company and its counsel, therefore, there was

19 no obligation on the part of Alexander

20 Capital to tell the company about its lack of

21 authority?

22 MR. WARD: Just objection.

23 MR. SCHLICHTMANN: Person --

24 MR. WARD: His personal,

25 okay.

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2 MR. SCHLICHTMANN: Personal.

3 MR. WARD: Calls for

4 speculation.

5 Q. Can you answer the question?

6 A. You can repeat it again.

7 Q. Okay. I am asking now as your

8 personal understanding. Did I understand

9 correctly about your previous testimony, that

10 because your understanding is that the

11 company and its counsel were the ones who put

12 together this registration statement, that,

13 therefore, Alexander Capital did not have any

14 responsibility to inform the company that it

15 did not have the authority to act as a sole

16 book-running manner on a firm commitment

17 offering? Is that what you are saying?

18 A. I believe we didn't have to offer

19 that, correct. We didn't have to say

20 anything.

21 Q. You didn't have to say anything

22 because your understanding is the company and

23 its counsel were responsible for the

24 registration statement and Alexander Capital

25 was not? Is that what you are saying?

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1 Joseph Amato

2 A. No, I believe we don't have to say

3 anything either way.

4 Q. Okay. Well, if Alexander Capital

5 was responsible for the reviewing and

6 approving the contents of the registration

7 statements such as this one, would your

8 opinion -- would your belief change or --

9 A. I don't know. That's not the case.

10 I am not responsible.

11 Q. Okay. Well, I am -- all right. I

12 am going to show you an e-mail chain, and

13 this is Plaintiff's Exhibit -- bear with me

14 here -- 180 --

15 A. Sure.

16 Q. -- previously marked. Now, this is

17 an e-mail chain between company's counsel,

18 Mr. Barrette, and counsel for Alexander

19 Capital, Greenberg Traurig, all right?

20 A. Yes.

21 Q. Okay. Now, the beginning of the

22 chain, Greenberg counsel, Kleiman, with a

23 copy to Mr. Marsico at Greenberg, to Mr.

24 Barrette says -- regarding the Alterix S-1

25 filing. Now, this is dated June 29, 2015,

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2 and I will represent to you that at that time

3 period, a second confidential filing of the

4 Alterix, as known as, Inpellis offering, was

5 filed on a confidential basis with the SEC,

6 all right? And here is an e-mail dated

7 Monday, June 29, 2015, from attorneys from

8 Greenberg Traurig to Mr. Barrette, the

9 attorney for Inpellis, regarding the Alterix

10 S-1 filing. It says, "Tom," referring to Mr.

11 Barrette, company's counsel, "could you

12 please send a revised draft of the S-1 with

13 the changes we sent last week? We need to

14 sign off before filing."

15 Do you see that?

16 A. I do.

17 Q. Was it your understanding, in -- as

18 of -- in 2015, that counsel for Alexander

19 Capital, quote, "needed to sign off" on the

20 registration before it was filed by company's

21 counsel"?

22 A. I -- I would be unaware.

23 Q. In seeing that, does that refresh

24 your recollection?

25 A. I have never seen this before.

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<p style="text-align: right;">Page 217</p> <p>1 Joseph Amato</p> <p>2 Q. All right. Is this statement by</p> <p>3 Alexander Capital's counsel at that time</p> <p>4 consistent with your understanding, as of</p> <p>5 June -- as of 2015, that there -- that before</p> <p>6 there was a filing, counsel for Alexander</p> <p>7 Capital needed to, quote, "sign off" before</p> <p>8 the filing?</p> <p>9 A. Sorry. I would be unaware.</p> <p>10 Q. It then says later in the chain --</p> <p>11 A. Can we go back a bit in the chain,</p> <p>12 so I can see --</p> <p>13 Q. Sure.</p> <p>14 A. Again, from the first one. Okay,</p> <p>15 the next one.</p> <p>16 Q. The next one. Yeah.</p> <p>17 A. That's from the company back to the</p> <p>18 lawyers?</p> <p>19 Q. That's correct.</p> <p>20 A. Okay.</p> <p>21 Q. Okay, we're going through each one,</p> <p>22 and then the lawyers for the company, same</p> <p>23 date, regarding the Alterix, say "Tom,</p> <p>24 attached please find our comments to the</p> <p>25 revised draft of the S-1. Thanks." Do you</p>	<p style="text-align: right;">Page 219</p> <p>1 Joseph Amato</p> <p>2 A. I do.</p> <p>3 Q. Now, here's a statement from</p> <p>4 counsel, in response to Greenberg Traurig</p> <p>5 attorneys, counsel for Alexander, saying that</p> <p>6 they had to have -- that -- that company's</p> <p>7 counsel had to have the signoff of Greenberg,</p> <p>8 and in response to that, company's counsel is</p> <p>9 saying, "I am sorry," in all caps, and he</p> <p>10 "did not mean to file without your" --</p> <p>11 referring to Greenberg Traurig's "clearance."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. Now, is that exchange, in</p> <p>15 that context, consistent with your</p> <p>16 understanding of whether or not Alexander</p> <p>17 Capital had to sign off, through its counsel,</p> <p>18 on any filing of any registration statement</p> <p>19 in which it was intended to be the</p> <p>20 underwriter?</p> <p>21 A. No.</p> <p>22 Q. That doesn't change your testimony?</p> <p>23 A. No, I don't -- not at all. I don't</p> <p>24 see my guys on here, no.</p> <p>25 Q. You don't see your guys but how</p>
<p style="text-align: right;">Page 218</p> <p>1 Joseph Amato</p> <p>2 see that?</p> <p>3 A. Uh-huh.</p> <p>4 Q. And then there is another e-mail</p> <p>5 from Mr. Barrette, company's counsel, dated</p> <p>6 the next day, to Anthony Marsico, Greenberg</p> <p>7 counsel, regarding the Alterix S-1. "Tony,</p> <p>8 sorry," in all caps?</p> <p>9 A. Yeah.</p> <p>10 Q. "I thought this" --</p> <p>11 A. Okay.</p> <p>12 Q. This is Mr. Barrette now saying to</p> <p>13 Mr. Marsico, attorney for Greenberg -- excuse</p> <p>14 me, attorney with Greenberg, who was counsel</p> <p>15 for Alexander Capital. He says, "Sorry," one</p> <p>16 word sentence, in all caps. Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. "I thought this e-mail string was</p> <p>19 your sign off. We did make all the changes</p> <p>20 which you will see in the filed version. I</p> <p>21 will get you the banner list and black lined</p> <p>22 copies right away. Again, my apologies. You</p> <p>23 and your team have been great, and I did not</p> <p>24 mean to file without your clearance." Do you</p> <p>25 see that?</p>	<p style="text-align: right;">Page 220</p> <p>1 Joseph Amato</p> <p>2 about the fact that this is attorney -- the</p> <p>3 counsel for Alexander Capital believes this?</p> <p>4 A. I -- I -- I don't believe so. You</p> <p>5 asked my opinion. I don't believe so.</p> <p>6 Q. You believe your counsel was</p> <p>7 incorrect?</p> <p>8 A. I -- I don't know. I didn't have a</p> <p>9 sidebar with counsel, so I don't know.</p> <p>10 Q. And who do you think was more</p> <p>11 knowledgeable as to the rules and regulations</p> <p>12 regarding Alexander Capital's</p> <p>13 responsibilities as to whether or not they</p> <p>14 should review and approve the contents of a</p> <p>15 registration statement in which Alexander</p> <p>16 Capital was the intended underwriter?</p> <p>17 Do you think Greenberg Traurig had</p> <p>18 more understanding and knowledge about that</p> <p>19 issue than you did at the time, or do you</p> <p>20 think that he did?</p> <p>21 A. I have no idea. Couldn't answer</p> <p>22 that question.</p> <p>23 Q. So you don't think that Greenberg</p> <p>24 Traurig, as counsel for Alexander Capital,</p> <p>25 has any specialized knowledge about the rules</p>

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<p style="text-align: right;">Page 221</p> <p>1 Joseph Amato</p> <p>2 and regulations that were applicable to</p> <p>3 Alexander Capital's responsibility regarding</p> <p>4 its -- regarding the review and approval of</p> <p>5 registration statements being filed in which</p> <p>6 Alexander Capital was the intended</p> <p>7 underwriter?</p> <p>8 A. I would be unaware of what his</p> <p>9 thoughts are. I have no idea.</p> <p>10 Q. No, I am not asking -- just since</p> <p>11 Alexander Capital's represented by Greenberg</p> <p>12 at the time -- well, first of all, are you</p> <p>13 aware of Greenberg Traurig as a law firm?</p> <p>14 A. Yes.</p> <p>15 Q. Do you consider them to be an</p> <p>16 experienced law firm or -- any kind of</p> <p>17 experience?</p> <p>18 A. I -- as we stated earlier, I have</p> <p>19 no idea.</p> <p>20 Q. Okay. Do you think that Alexander</p> <p>21 Capital's chosen counsel of Greenberg Traurig</p> <p>22 would be in an -- a better position than</p> <p>23 yourself, in 2015, regarding what rules and</p> <p>24 regulations were applicable to Alexander</p> <p>25 Capital's responsibilities regarding the</p>	<p style="text-align: right;">Page 223</p> <p>1 Joseph Amato</p> <p>2 necessity for Alexander Capital, and its</p> <p>3 counsel to review and approve a filing in</p> <p>4 which Alexander Capital's the intended</p> <p>5 underwriter, that it received that review and</p> <p>6 approval, prior to any filing, does that help</p> <p>7 you in any way refresh your recollection as</p> <p>8 to whether or not it was your understanding,</p> <p>9 in 2015, that Alexander Capital had a</p> <p>10 responsibility to review and approve any</p> <p>11 filing that was being made of an offering in</p> <p>12 which it was the intended underwriter?</p> <p>13 A. I would say, no, again, and they</p> <p>14 filed without our approval, apparently, so,</p> <p>15 no, it hasn't changed my opinion from then to</p> <p>16 now.</p> <p>17 Q. When you say, "they filed it</p> <p>18 without Alexander Capital's approval," you're</p> <p>19 referring to this filing in June?</p> <p>20 A. Filings. We don't control the</p> <p>21 filings.</p> <p>22 Q. Okay. But do you see -- you say</p> <p>23 you don't control the filings, but do you --</p> <p>24 is it your -- after reviewing this e-mail</p> <p>25 chain, is it apparent to you in seeing this</p>
<p style="text-align: right;">Page 222</p> <p>1 Joseph Amato</p> <p>2 review and approval of filings -- offerings</p> <p>3 being filed with Alexander Capital as the</p> <p>4 intended underwriter, or you have no such</p> <p>5 understanding or opinion?</p> <p>6 A. I have no such understanding or</p> <p>7 opinion.</p> <p>8 Q. Okay. Now I show you later on in</p> <p>9 the train -- the chain, all right, it ends</p> <p>10 with Mr. Marsico writing back to Mr. Barrette</p> <p>11 regarding Alterix' S-1. "No worries. Please</p> <p>12 in the future hold off on filing until you</p> <p>13 get our express written approval on behalf of</p> <p>14 both Greenberg Traurig and Alexander." Ends</p> <p>15 with "thanks," exclamation, "Tony," referring</p> <p>16 to himself, Mr. Marsico, of Greenberg.</p> <p>17 Now, having read and gone through</p> <p>18 this e-mail chain and seeing the exchange of</p> <p>19 what Mr. Barrette understood his</p> <p>20 responsibilities were regarding giving</p> <p>21 Alexander Capital the opportunity, as its</p> <p>22 counsel, the opportunity to review and</p> <p>23 approve, and Mr. Green -- the attorney for</p> <p>24 Greenberg Traurig, Alexander Capital's</p> <p>25 counsel regarding its opinion as to the</p>	<p style="text-align: right;">Page 224</p> <p>1 Joseph Amato</p> <p>2 e-mail chain, that at that time that</p> <p>3 Greenberg Traurig, on behalf of Alexander</p> <p>4 Capital, sought its role to control the</p> <p>5 filing, and make sure that it, at Alexander</p> <p>6 Capital, had the opportunity to review and</p> <p>7 approve the contents of the registration,</p> <p>8 before it was filed?</p> <p>9 A. I don't see that at all being said</p> <p>10 and would have to ask Greenberg Traurig. I</p> <p>11 don't know.</p> <p>12 Q. Give me a moment. I will be</p> <p>13 wrapping up shortly. I stopped the sharing,</p> <p>14 okay. I am no longer sharing the screen,</p> <p>15 right?</p> <p>16 A. You are not.</p> <p>17 Q. That's right. Mr. Amato, did it</p> <p>18 ever come to your attention that at some</p> <p>19 point a -- that the board of directors of</p> <p>20 Alterix or Inpellis approved the public</p> <p>21 filing of the offering in which Alexander</p> <p>22 Capital was intended to be the underwriter --</p> <p>23 that they approved that filing to be filed</p> <p>24 publicly? Are you aware of that?</p> <p>25 A. I am not.</p>

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<p style="text-align: right;">Page 225</p> <p>1 Joseph Amato</p> <p>2 Q. I am going to --</p> <p>3 A. Can I ask you guys to hold a</p> <p>4 second? I just gotta grab a tissue.</p> <p>5 Q. Absolutely.</p> <p>6 A. Thank you, all.</p> <p>7 Q. Yeah. Are you -- were you aware</p> <p>8 that in 2015, Mr. Restrepo was hired by</p> <p>9 Alexander Capital?</p> <p>10 A. Yes.</p> <p>11 Q. Were you aware that he was made</p> <p>12 chief compliance officer?</p> <p>13 A. Yes.</p> <p>14 Q. Do you understand why -- the reason</p> <p>15 why Mr. Restrepo was hired?</p> <p>16 A. To bring on a more experienced</p> <p>17 compliance officer, hopefully, to grow the</p> <p>18 firm.</p> <p>19 Q. Was it your understanding that Mr.</p> <p>20 Restrepo was hired in order to help Alexander</p> <p>21 Capital obtain the authorization that it was</p> <p>22 applying for in 2015, that we've discussed</p> <p>23 previously?</p> <p>24 A. I would assume that's part of it,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 227</p> <p>1 Joseph Amato</p> <p>2 And this is a registration</p> <p>3 statement, okay, drafted November 9, 2015. I</p> <p>4 want you to accept that that is true, all</p> <p>5 right? And this is Plaintiff's Exhibit 34.</p> <p>6 All right.</p> <p>7 A. Yeah.</p> <p>8 Q. Now, this is a draft registration</p> <p>9 statement, November 9, 2015, that was</p> <p>10 presented to the board of directors of</p> <p>11 Inpellis, also known as, Alterix, on the</p> <p>12 evening of November 9, all right? I want you</p> <p>13 to assume that that's true, all right? And</p> <p>14 the -- and the -- I want you also to assume</p> <p>15 that it's true that the board of directors,</p> <p>16 on the evening of November 9th, after</p> <p>17 reviewing this draft, that they approved this</p> <p>18 draft for filing the next day as a publicly</p> <p>19 filed S-1, as opposed to a confidentially</p> <p>20 filed S-1, all right? I want you to assume</p> <p>21 that that's true.</p> <p>22 A. Okay.</p> <p>23 Q. Was it your understanding, in 2015,</p> <p>24 that there were certain -- that there was a</p> <p>25 difference between a confidential filing and</p>
<p style="text-align: right;">Page 226</p> <p>1 Joseph Amato</p> <p>2 Q. All right. Were you aware as to</p> <p>3 whether Mr. Restrepo was successful in</p> <p>4 getting such authorization?</p> <p>5 A. I don't recall which -- which one</p> <p>6 was final approval, so I don't recall which.</p> <p>7 Q. All right. Are you aware of the</p> <p>8 fact that the application that Alexander</p> <p>9 Capital filed was withdrawn by Alexander</p> <p>10 Capital, without obtaining the approval that</p> <p>11 we've discussed with -- the application we've</p> <p>12 discussed previously?</p> <p>13 A. Yes, then, yes, then, he wasn't,</p> <p>14 okay. Thank you.</p> <p>15 Q. All right. Are you aware of the</p> <p>16 fact that the application was withdrawn, that</p> <p>17 we've discussed previously, by Alexander</p> <p>18 Capital, without getting the approval of</p> <p>19 FINRA to -- for the things asked for?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And I am going to show</p> <p>22 you...I am going to show you a registration</p> <p>23 statement involving Alterix, also known as</p> <p>24 Inpellis. Here the name changed. Now it's</p> <p>25 Inpellis, same company.</p>	<p style="text-align: right;">Page 228</p> <p>1 Joseph Amato</p> <p>2 a public filing?</p> <p>3 A. Not so much.</p> <p>4 Q. Did you understand that in a</p> <p>5 private filing, that was a so-called</p> <p>6 confidential filing with the SEC about a</p> <p>7 proposed registration statement, that, that</p> <p>8 would give the opportunity for the SEC's</p> <p>9 section of corporate finance to provide</p> <p>10 comments regarding the contents of the</p> <p>11 registration?</p> <p>12 Was that your understanding?</p> <p>13 A. Okay, yes.</p> <p>14 Q. Okay. And was it your</p> <p>15 understanding, then, that when you file a</p> <p>16 registration statement publicly, that, then,</p> <p>17 that -- that registration statement is under</p> <p>18 a different set of rules and regulations than</p> <p>19 a confidential one?</p> <p>20 Were you aware of that?</p> <p>21 A. No, I would be unaware.</p> <p>22 Q. Were you aware of the fact that</p> <p>23 when you file a registration statement</p> <p>24 publicly, that that publicly filed statement</p> <p>25 now becomes subject to the rules and</p>

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<p style="text-align: right;">Page 229</p> <p>1 Joseph Amato</p> <p>2 regulations of the SEC regarding whether</p> <p>3 there are any material misstatements or</p> <p>4 material omissions contained in the publicly</p> <p>5 filed document, as opposed to the filing of a</p> <p>6 confidential registration statement?</p> <p>7 Are you -- were you aware of it at</p> <p>8 that time?</p> <p>9 A. I didn't know if there was a</p> <p>10 difference between the two.</p> <p>11 Q. Are you aware of it now?</p> <p>12 A. No.</p> <p>13 Q. Am I telling you -- if what I just</p> <p>14 said to you is true, is that coming to you as</p> <p>15 new information?</p> <p>16 A. Yes, it would be.</p> <p>17 Q. Okay. Now this November 9th draft</p> <p>18 registration statement that the board of</p> <p>19 directors approved for filing a public -- for</p> <p>20 a public filing the next day, all right, says</p> <p>21 on the second page, "This is a firm</p> <p>22 commitment initial public offering." Do you</p> <p>23 see that?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And if we go to...the</p>	<p style="text-align: right;">Page 231</p> <p>1 Joseph Amato</p> <p>2 was publicly filed, that that statement was</p> <p>3 in the publicly filed document, and the</p> <p>4 registration was a firm commitment offering,</p> <p>5 if that was publicly filed, is it your</p> <p>6 understanding that such a public filing would</p> <p>7 be in violation of the terms of the agreement</p> <p>8 between Alexander Capital and FINRA regarding</p> <p>9 what types of offerings Alexander Capital</p> <p>10 could undertake as an underwriter and which</p> <p>11 kind it could not undertake?</p> <p>12 MR. WARD: Objection.</p> <p>13 Misleading and misstates the</p> <p>14 record.</p> <p>15 Q. Can you understand the question?</p> <p>16 A. Can you repeat it?</p> <p>17 Q. Yes. Any time. And if you need me</p> <p>18 to restate, I will be happy to do so.</p> <p>19 Did you have an understanding, in</p> <p>20 2015, that if a registration statement was</p> <p>21 publicly filed in which Alexander Capital, LP</p> <p>22 was presented as the sole book-running</p> <p>23 manager of the offering, and the offering was</p> <p>24 a firm commitment offering, and Alexander</p> <p>25 Capital was the sole underwriter on that</p>
<p style="text-align: right;">Page 230</p> <p>1 Joseph Amato</p> <p>2 "underwriting" section of this draft, okay,</p> <p>3 it's the same as the underwriting section</p> <p>4 that we previously went over that was filed</p> <p>5 on August 5th regarding underwriting. And</p> <p>6 under the "underwriting" section it says,</p> <p>7 "Alexander Capital, LP, is acting as the sole</p> <p>8 book-running manager, book-running manager,</p> <p>9 of the offering." All right. Do you see</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. And that "Alexander Capital, LP is</p> <p>13 the only listed underwriter." Do you see</p> <p>14 that?</p> <p>15 A. I do see that.</p> <p>16 Q. And that the "underwriters are</p> <p>17 committed to purchase all the shares of</p> <p>18 common stock offered by us." Do you see</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And if this document, all</p> <p>22 right, was filed as a publicly filed S-1,</p> <p>23 would this underwriting statement that</p> <p>24 Alexander Capital, okay, was acting as sole</p> <p>25 book-running manager of the offering when it</p>	<p style="text-align: right;">Page 232</p> <p>1 Joseph Amato</p> <p>2 offering, and it was publicly filed, that</p> <p>3 that -- that the filing listing Alexander</p> <p>4 Capital as the sole book-running manager and</p> <p>5 the sole underwriter of an offering that was</p> <p>6 a firm commitment offering, that that would</p> <p>7 be in violation of Alexander Capital's terms</p> <p>8 of the agreement between it and FINRA about</p> <p>9 what types of underwriting it could</p> <p>10 participate in and what kind it could not?</p> <p>11 A. I don't believe we would be in</p> <p>12 violation, no, because we didn't do the</p> <p>13 filing, and we didn't do the deal, so, no.</p> <p>14 Q. You say you didn't do the deal.</p> <p>15 What do you mean by that?</p> <p>16 A. We didn't file it. This is not our</p> <p>17 filing, and we didn't go into a firm</p> <p>18 commitment underwriting with this company at</p> <p>19 the time. It's not a done deal.</p> <p>20 Q. All right. Now, the -- if, in</p> <p>21 fact, Alexander Capital had known about this</p> <p>22 firm commitment underwriting registration</p> <p>23 statement, all right -- well, let me ask you</p> <p>24 this: If Alexander Capital had known and</p> <p>25 approved of a firm of a registration</p>

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<p style="text-align: right;">Page 233</p> <p>1 Joseph Amato</p> <p>2 statement that was filed in -- regarding the</p> <p>3 things we've gone over regarding</p> <p>4 underwriting, on October 28, all right, as a</p> <p>5 confidentially filed registration statement,</p> <p>6 would it have been in -- in accordance with</p> <p>7 the terms of its agreement with FINRA</p> <p>8 regarding the types of underwriting it could</p> <p>9 or could not participate in?</p> <p>10 MR. WARD: Objection;</p> <p>11 confusing.</p> <p>12 MR. SCHLICHTMANN: All</p> <p>13 right, I don't want to be</p> <p>14 confusing.</p> <p>15 A. Again, I don't believe it's</p> <p>16 hearsay. We didn't do this, so I don't -- I</p> <p>17 don't get the question. We didn't -- we</p> <p>18 don't submit this.</p> <p>19 Is there a question in that?</p> <p>20 MR. WARD: I don't think</p> <p>21 there's one pending.</p> <p>22 You are on "muted," Jan.</p> <p>23 You are still on mute.</p> <p>24 MR. SCHLICHTMANN: No, I</p> <p>25 just unmuted it. I don't know what</p>	<p style="text-align: right;">Page 235</p> <p>1 Joseph Amato</p> <p>2 filing -- for Alexander Capital to allow a</p> <p>3 filing to be made in which it was listed as</p> <p>4 sole book-running manager of a firm</p> <p>5 commitment offering; is that true?</p> <p>6 MR. WARD: Objection.</p> <p>7 Misstates testimony.</p> <p>8 MR. SCHLICHTMANN: I am</p> <p>9 asking --</p> <p>10 Q. Do you understand the question?</p> <p>11 A. Repeat it again. I believe I do,</p> <p>12 but go ahead.</p> <p>13 Q. Okay. Is it your -- was it your</p> <p>14 understanding, in 2015, that if Alexander</p> <p>15 Capital exercised any kind of control over a</p> <p>16 filing that was to be made in which it was</p> <p>17 listed as the sole book-running manager of a</p> <p>18 firm commitment offering, all right, if it</p> <p>19 had such control over whether such</p> <p>20 registration statement should be filed, that</p> <p>21 Alexander Capital should exercise its ability</p> <p>22 to control that filing by refusing -- by</p> <p>23 failing to approve its filing listing it as</p> <p>24 the sole book-running manager of a firm</p> <p>25 commitment offering, because such a listing</p>
<p style="text-align: right;">Page 234</p> <p>1 Joseph Amato</p> <p>2 just happened here, but whatever.</p> <p>3 I lost contact with earth here. I</p> <p>4 don't know, the mother ship.</p> <p>5 Q. What -- technology.</p> <p>6 Well, I don't know how that all</p> <p>7 occurred, but as we last left, the question</p> <p>8 was: Was it your understanding, in 2015,</p> <p>9 that an offering -- that it was not -- was it</p> <p>10 your understanding, as of 2015, that</p> <p>11 Alexander Capital could not be listed as the</p> <p>12 sole book-running manager and sole</p> <p>13 underwriter in a firm commitment offering,</p> <p>14 all right, because it did not have the</p> <p>15 authority, under its membership with FINRA,</p> <p>16 to be such an underwriter? Is that true?</p> <p>17 A. I believe someone could list us.</p> <p>18 We don't do -- we don't put the filings in,</p> <p>19 so if they list us, we don't have control</p> <p>20 over that. So someone can list us.</p> <p>21 Q. Okay. But if Alexander Capital did</p> <p>22 have control, okay, as to whether a</p> <p>23 particular registration statement was to be</p> <p>24 filed, it's your testimony, I take it, that</p> <p>25 it would not be appropriate for that</p>	<p style="text-align: right;">Page 236</p> <p>1 Joseph Amato</p> <p>2 would be in violation of its agreement with</p> <p>3 FINRA regarding what underwritings it could</p> <p>4 or could not participate in?</p> <p>5 A. No, I believe the violation would</p> <p>6 be if we did the deal. Nothing to do with</p> <p>7 the filing. Because we don't control the</p> <p>8 filings.</p> <p>9 Q. Well, I am asking you if, in fact,</p> <p>10 Alexander Capital had the opportunity to</p> <p>11 control such a filing. That's what I am</p> <p>12 asking.</p> <p>13 A. I couldn't answer to that. I don't</p> <p>14 do the filings, so I don't know.</p> <p>15 Q. You have no understanding as to</p> <p>16 whether if Alexander Capital, LP, in fact,</p> <p>17 did have control over the filing, as to</p> <p>18 whether or not Alexander Capital, in 2015,</p> <p>19 should have exercised its control so that no</p> <p>20 such filing would be made listing it as the</p> <p>21 sole book-running manager of a firm</p> <p>22 commitment offer?</p> <p>23 A. I don't believe we had control. I</p> <p>24 don't know. I am not positive. And I don't</p> <p>25 believe we did -- we filed it anyway. I</p>

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<p style="text-align: right;">Page 237</p> <p>1 Joseph Amato</p> <p>2 don't believe so.</p> <p>3 Q. Okay. Now, in -- and I will wrap</p> <p>4 up here with -- we went over the fact that</p> <p>5 the restriction agreement of -- the</p> <p>6 restrictions that were imposed by FINRA in</p> <p>7 June 11, 2015, we went over that previously,</p> <p>8 and was it your understanding that in light</p> <p>9 of those restrictions of June 11, 2015, that</p> <p>10 Alexander Capital, in light of those</p> <p>11 restrictions, in response to its application</p> <p>12 for authorization regarding participation in</p> <p>13 a firm commitment offering, all right, that</p> <p>14 after June 11, 2015, it was not appropriate</p> <p>15 for Alexander Capital to be listed in a</p> <p>16 confidential filing with the SEC, as the sole</p> <p>17 book-running manager, sole underwriter, of an</p> <p>18 offering in which -- which was a firm</p> <p>19 commitment offer?</p> <p>20 A. I can't say that to be the case.</p> <p>21 Q. Okay, why not?</p> <p>22 A. Because I don't believe it to be</p> <p>23 the case. We don't control the filings and I</p> <p>24 don't believe that to be the case.</p> <p>25 Q. And --</p>	<p style="text-align: right;">Page 239</p> <p>1 Joseph Amato</p> <p>2 -- was -- did -- let me ask it this way: Is</p> <p>3 it your understanding that if Alexander</p> <p>4 Capital, in light of those restrictions of</p> <p>5 June 11, 2015, that Alexander Capital, in</p> <p>6 light of those restrictions, could not</p> <p>7 indicate to a company that it was working</p> <p>8 with, that it was okay for that company to</p> <p>9 file a registration statement with the SEC in</p> <p>10 which Alexander Capital was listed as the</p> <p>11 sole book-running manager for a firm</p> <p>12 commitment offer?</p> <p>13 Do you agree with that that's --</p> <p>14 your understanding would be that it would be</p> <p>15 wrong for Alexander Capital to inform a</p> <p>16 company that it was okay, after the June 11,</p> <p>17 2015, restriction letter from FINRA, to file</p> <p>18 a registration statement in which Alexander</p> <p>19 Capital was listed as the sole book-running</p> <p>20 manager of a firm commitment offer?</p> <p>21 A. I believe the violation would be if</p> <p>22 we did the deal not being listed in the deal,</p> <p>23 so I don't believe we'd be in violation, is</p> <p>24 my opinion.</p> <p>25 Q. Okay. Regarding a filing with the</p>
<p style="text-align: right;">Page 238</p> <p>1 Joseph Amato</p> <p>2 A. We didn't do the deal. The filing,</p> <p>3 we didn't control. So I don't believe it to</p> <p>4 be the case. Same question you asked me four</p> <p>5 times.</p> <p>6 Q. Okay, but what I am asking, though,</p> <p>7 is whether it would have been in accordance</p> <p>8 with the restrictions outlined in the June</p> <p>9 11, 2015, letter, for such a filing to take</p> <p>10 place?</p> <p>11 Would it have been in accordance</p> <p>12 with those restrictions, regardless of</p> <p>13 whether Alexander Capital approved it or</p> <p>14 didn't approve it, would it have been in</p> <p>15 accordance with the restrictions?</p> <p>16 A. I believe we would be fine. We</p> <p>17 didn't do nothing wrong. I don't believe we</p> <p>18 would have been in any harms way with that.</p> <p>19 Q. And why is that?</p> <p>20 A. Because that's my belief. You</p> <p>21 asked my belief.</p> <p>22 Q. I understand. What's the basis of</p> <p>23 your belief?</p> <p>24 A. We're not violating anything.</p> <p>25 Q. Okay. If Alexander Capital could</p>	<p style="text-align: right;">Page 240</p> <p>1 Joseph Amato</p> <p>2 SEC, a confidential filing with the SEC?</p> <p>3 A. I don't believe we would be in</p> <p>4 violation.</p> <p>5 Q. That that's not a firm commitment</p> <p>6 deal in the works to which Alexander Capital</p> <p>7 is not allowed to participate; is that your</p> <p>8 opinion?</p> <p>9 A. My opinion is, we didn't create it.</p> <p>10 I don't believe we'd be in violation.</p> <p>11 Q. Would you consider -- would you</p> <p>12 consider that Alexander Capital allowing the</p> <p>13 filing of a registration statement, after the</p> <p>14 restriction letter in which it's listed as</p> <p>15 sole book-running manager, and intent to be</p> <p>16 the sole book-running manager of that</p> <p>17 offering, that, just to be clear, in your</p> <p>18 understanding, that would have been not in</p> <p>19 violation of the restrictions of the June 11,</p> <p>20 2015, for Alexander Capital to be -- to say</p> <p>21 that it's okay to file that registration</p> <p>22 statement with their listing as such?</p> <p>23 A. Can you define "allows" for me?</p> <p>24 Q. Okay. Know about it and approve</p> <p>25 it.</p>

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<p style="text-align: right;">Page 241</p> <p>1 Joseph Amato</p> <p>2 A. In what form? A signed agreement?</p> <p>3 Like what are we -- what's the allowed? I</p> <p>4 don't understand.</p> <p>5 Q. So, after June 11, 2015, I</p> <p>6 represent to you that Alexander Capital filed</p> <p>7 -- excuse me -- a registration statement was</p> <p>8 filed at the end of June, after the</p> <p>9 restriction letter was issued in 2015, in</p> <p>10 which Alexander Capital was listed as the</p> <p>11 sole book-running manager of a firm</p> <p>12 commitment offering for Alterix, also known</p> <p>13 as, Inpellis, and that was a confidential</p> <p>14 filing. All right. In June, end of June,</p> <p>15 after the restriction letter.</p> <p>16 A. By the company, correct?</p> <p>17 Q. Filed by the company, with the</p> <p>18 knowledge and approval of Alexander Capital</p> <p>19 and its counsel.</p> <p>20 A. By knowledge of Alexander or</p> <p>21 counsel? Hearsay. I don't -- I haven't seen</p> <p>22 that yet from what you have shown me.</p> <p>23 Q. Okay, well, I want you to assume,</p> <p>24 based on the e-mail exchange that we went</p> <p>25 over previously, that Greenberg had knowledge</p>	<p style="text-align: right;">Page 243</p> <p>1 Joseph Amato</p> <p>2 A. I don't think we'd be in violation</p> <p>3 either way. Because we didn't do the deal.</p> <p>4 That's my opinion.</p> <p>5 Q. Yes, but I am now asking about the</p> <p>6 knowledge and approval of the confidential</p> <p>7 filing.</p> <p>8 A. You asked two questions, and I</p> <p>9 believe either way, we wouldn't be in harm's</p> <p>10 way.</p> <p>11 Q. Okay. So just to be clear, then,</p> <p>12 that in -- your understanding was that in --</p> <p>13 after the June 11, 2015, restriction letter</p> <p>14 that we went over previously, that it was</p> <p>15 okay for Alexander Capital, with knowledge</p> <p>16 and approval to -- with knowledge of the</p> <p>17 contents of the offering, to give approval,</p> <p>18 through its counsel, to the filing -- any</p> <p>19 confidential filing of that offering in which</p> <p>20 it's listed as sole book-running manager.</p> <p>21 That's what I am asking.</p> <p>22 A. No, I didn't say we approved it.</p> <p>23 No, I did not say that.</p> <p>24 Q. Okay. And I am -- all right. I</p> <p>25 understand that. What I am asking is --</p>
<p style="text-align: right;">Page 242</p> <p>1 Joseph Amato</p> <p>2 and approved the filing at the end of June,</p> <p>3 okay, a couple of weeks after June 11, 2015,</p> <p>4 restriction letter, and that the filing that</p> <p>5 was made in June had the knowledge and the</p> <p>6 approval of Greenberg Traurig at the end of</p> <p>7 June, Alexander Capital's counsel. I want</p> <p>8 you to assume that's true. Go ahead.</p> <p>9 A. You noted "we had knowledge."</p> <p>10 You're assuming we had knowledge. You are</p> <p>11 assuming what Greenberg has done on your</p> <p>12 behalf. I don't see that. That's what you</p> <p>13 assume from the e-mails.</p> <p>14 Q. Okay. And is your testimony, then,</p> <p>15 that if Alexander Capital had knowledge and</p> <p>16 approved, okay, the filing of the</p> <p>17 registration statement at the end of June on</p> <p>18 a confidential basis, which listed Alexander</p> <p>19 Capital as the sole book-running manager of a</p> <p>20 firm committing offering, that that would</p> <p>21 have been -- that would not have been in</p> <p>22 violation of the restrictions that were</p> <p>23 issued by FINRA on June 11, 2015? Or that</p> <p>24 would have been in violation of the</p> <p>25 restriction?</p>	<p style="text-align: right;">Page 244</p> <p>1 Joseph Amato</p> <p>2 A. And I don't handle this for the</p> <p>3 firm. So, again, you are asking the wrong</p> <p>4 question.</p> <p>5 MR. WARD: I will instruct</p> <p>6 the witness, just wait for the</p> <p>7 question, please. And listen to</p> <p>8 the question, okay?</p> <p>9 MR. SCHLICHTMANN: Yeah,</p> <p>10 that's all right. It's getting</p> <p>11 late. We are about to wrap up and</p> <p>12 I know we all get tired at the and</p> <p>13 anyway and I appreciate -- I am</p> <p>14 trying to wrap this up.</p> <p>15 Q. The question I have is: I want you</p> <p>16 to assume that the filing at the end of June,</p> <p>17 which occurred a couple weeks after the</p> <p>18 restriction letter was done, I want you to</p> <p>19 assume that it was done with the knowledge</p> <p>20 and approval of Alexander Capital and its</p> <p>21 counsel. I want you to assume that as true,</p> <p>22 all right? I want you to assume that the</p> <p>23 registration statement was then filed again</p> <p>24 on August 5, 2015, with the full knowledge</p> <p>25 and full approval of Alexander Capital and</p>

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<p style="text-align: right;">Page 245</p> <p>1 Joseph Amato</p> <p>2 its counsel, and I want you to assume that</p> <p>3 it's true, that the registration statement</p> <p>4 was filed in a confidential basis on October</p> <p>5 6, with the knowledge and approval of</p> <p>6 Alexander Capital and its counsel, and I want</p> <p>7 you to assume that it's true that on October</p> <p>8 28, that the registration statement was filed</p> <p>9 with the full knowledge and approval of</p> <p>10 Alexander Capital on October 28, 2015, on a</p> <p>11 confidential basis, and that on each of those</p> <p>12 filings that I just went over, end of June,</p> <p>13 August, and the two in October, that each one</p> <p>14 of those listed Alexander Capital as the sole</p> <p>15 book-running manager, okay, and the sole</p> <p>16 underwriter of an offering that declared</p> <p>17 itself to be a firm commitment offering, and</p> <p>18 it was in the same -- and it was exactly in</p> <p>19 the same form as the April filing, the</p> <p>20 initial confidential filing of the</p> <p>21 registration statement, in exactly the same</p> <p>22 form, regarding the fact that it declared</p> <p>23 itself to be a firm commitment underwriting,</p> <p>24 and the same terms of underwriting that we</p> <p>25 went over here were the same. So from April</p>	<p style="text-align: right;">Page 247</p> <p>1 Joseph Amato</p> <p>2 each of the filings I just went through?</p> <p>3 A. I have no reason to believe that we</p> <p>4 did that. So I can't -- I don't -- I don't</p> <p>5 know of that. So I can't answer to that,</p> <p>6 saying that we did it.</p> <p>7 Q. What I am asking is: Do you have</p> <p>8 any reason to believe, as you sit here today,</p> <p>9 that it was okay for Alexander Capital, if it</p> <p>10 in fact had knowledge and approval of those</p> <p>11 filings, that it was okay for them to -- with</p> <p>12 that knowledge, to give that approval that I</p> <p>13 just went over?</p> <p>14 A. I can't answer such a question. I</p> <p>15 don't know. I can't speak to someone else</p> <p>16 besides myself, so I don't know.</p> <p>17 Q. Okay. I have no more questions.</p> <p>18 Thank you. I appreciate your patience.</p> <p>19 MR. WARD: We can take a</p> <p>20 quick break. Jan, if you want -- I</p> <p>21 will not ask any questions but,</p> <p>22 Jan, if you have an issue with the</p> <p>23 last response, in terms of that you</p> <p>24 want more of a response, I can talk</p> <p>25 to the witness, if you are fine</p>
<p style="text-align: right;">Page 246</p> <p>1 Joseph Amato</p> <p>2 to June to August, to two times in October on</p> <p>3 a confidential basis.</p> <p>4 Now I am asking -- I want you to</p> <p>5 assume that that is true. Was it your</p> <p>6 understanding, in 2015, that -- that those</p> <p>7 filings, after June 11th of 2015, after</p> <p>8 receipt of the letter from FINRA that gave</p> <p>9 the restrictions we went over previously,</p> <p>10 that it was okay for Alexander Capital to</p> <p>11 give its knowledge and approval to those post</p> <p>12 June 11, 2015, filings that I just went over?</p> <p>13 A. So that's a lot of assumptions to</p> <p>14 take place and I don't know if I am truly</p> <p>15 qualified to answer this. So I would have</p> <p>16 deferred to my legal at the time, and I don't</p> <p>17 know the answer. I don't -- I can't make six</p> <p>18 assumptions on something that I didn't have</p> <p>19 control of the file, which I am unaware if</p> <p>20 any of it was ever approved by anyone at my</p> <p>21 firm. So I can't make that assumption here</p> <p>22 today.</p> <p>23 Q. And do you have any reason to</p> <p>24 believe as of -- as you sit here today, that</p> <p>25 Alexander Capital knew about and approved</p>	<p style="text-align: right;">Page 248</p> <p>1 Joseph Amato</p> <p>2 with that, then.</p> <p>3 MR. SCHLICHTMANN: Fine.</p> <p>4 Let's do that. That would be</p> <p>5 great. I would appreciate that.</p> <p>6 Sure. I want the witness to be</p> <p>7 comfortable with the answer. So</p> <p>8 absolutely. Sure, take the time</p> <p>9 and then we can wrap up.</p> <p>10 MR. WARD: We will take a</p> <p>11 quick break and we will be back.</p> <p>12 MR. SCHLICHTMANN: I</p> <p>13 appreciate that. Thank you.</p> <p>14 THE VIDEOGRAPHER: Going off</p> <p>15 video record. Time is 3:57 p.m.</p> <p>16 (Whereupon, a recess was</p> <p>17 taken at this time.)</p> <p>18 THE VIDEOGRAPHER: Back on</p> <p>19 video record. Time is 4:03 p.m.</p> <p>20 MR. SCHLICHTMANN: Can I</p> <p>21 have the stenographer read the last</p> <p>22 question that was pending for the</p> <p>23 witness.</p> <p>24 (Whereupon, the requested</p> <p>25 portion was read by the reporter.)</p>

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<p style="text-align: right;">Page 249</p> <p>1 Joseph Amato</p> <p>2 THE WITNESS: With all the</p> <p>3 assumptions we discussed that on</p> <p>4 each filing we had knowledge of it,</p> <p>5 and we approved of such, I don't</p> <p>6 believe any violations occurred by</p> <p>7 Alexander Capital for doing so with</p> <p>8 that.</p> <p>9 MR. SCHLICHTMANN: Okay. I</p> <p>10 have got no more questions.</p> <p>11 MR. WARD: Nothing from me.</p> <p>12 THE VIDEOGRAPHER: Okay.</p> <p>13 Counsel, right before we go</p> <p>14 off video record, will you be</p> <p>15 ordering transcript or video?</p> <p>16 MR. SCHLICHTMANN: I'm</p> <p>17 sorry?</p> <p>18 THE VIDEOGRAPHER: Will you</p> <p>19 be ordering transcript or video?</p> <p>20 MR. SCHLICHTMANN: Yes,</p> <p>21 transcript keyed to the video and</p> <p>22 also a rough.</p> <p>23 THE VIDEOGRAPHER: Mr. Ward?</p> <p>24 MR. WARD: I will just be</p> <p>25 getting the transcript and a rough</p>	<p style="text-align: right;">Page 251</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3</p> <p>4 WITNESS EXAMINATION BY PAGE</p> <p>5 JOSEPH AMATO</p> <p>6 MR. SCHLICHTMANN 6</p> <p>7</p> <p>8</p> <p>9 -----</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 250</p> <p>1 Joseph Amato</p> <p>2 when you have it, please.</p> <p>3 THE VIDEOGRAPHER: Okay.</p> <p>4 Wait, as far as the video?</p> <p>5 MR. WARD: No need for</p> <p>6 video.</p> <p>7 THE VIDEOGRAPHER: Okay.</p> <p>8 Going off video record. Time is</p> <p>9 4:05 p.m.</p> <p>10 -oOo-</p> <p>11 (Whereupon, the examination</p> <p>12 of JOSEPH AMATO was adjourned at</p> <p>13 4:05 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17 JOSEPH AMATO</p> <p>18</p> <p>19</p> <p>20 Subscribed and sworn to</p> <p>21 before me this day</p> <p>22 of , 2021.</p> <p>23</p> <p>24</p> <p>25 NOTARY PUBLIC</p>	<p style="text-align: right;">Page 252</p> <p>1</p> <p>2</p> <p>3 C E R T I F I C A T E</p> <p>4</p> <p>5 STATE OF NEW YORK)</p> <p>6 : ss.</p> <p>7 COUNTY OF NEW YORK)</p> <p>8</p> <p>9 I, AYDIL M. TORRES, a Notary Public</p> <p>10 within and for the State of New York, do</p> <p>11 hereby certify:</p> <p>12 That JOSEPH AMATO, the witness whose</p> <p>13 deposition is hereinbefore set forth, was</p> <p>14 duly sworn by me and that such deposition is</p> <p>15 a true record of the testimony given by the</p> <p>16 witness.</p> <p>17 I further certify that I am not</p> <p>18 related to any of the parties to this action</p> <p>19 by blood or marriage, and that I am in no way</p> <p>20 interested in the outcome of this matter.</p> <p>21 IN WITNESS WHEREOF, I have hereunto</p> <p>22 set my hand this 30th day of September, 2021.</p> <p>23</p> <p>24</p> <p>25 AYDIL M. TORRES</p>

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Page 253	Page 255
1	1
2 DEPOSITION ERRATA SHEET	2 DEPOSITION ERRATA SHEET
3	3 Page No. _____ Line No. _____ Change
4 Our Assignment No. J7462962	4 to: _____
5 Case Caption: JOHN T. AQUINO, CH 7 vs.	5 _____
6 ALEXANDER CAPITAL, LP, ET. AL	6 Reason for
7 DECLARATION UNDER PENALTY OF PERJURY	7 change: _____
8 I declare under penalty of perjury	8 Page No. _____ Line No. _____ Change
9 That I have read the entire transcript of	9 to: _____
10 My Deposition taken in the captioned matter	10 _____
11 Or the same has been read to me, and	11 Reason for
12 The same is true and accurate, save and	12 change: _____
13 Except for changes and/or corrections, if	13 Page No. _____ Line No. _____ Change
14 Any, as indicated by me on the DEPOSITION	14 to: _____
15 ERRATA SHEET hereof, with the understanding	15 _____
16 That I offer these changes as if still under	16 Reason for
17 Oath.	17 change: _____
18 _____	18 Page No. _____ Line No. _____ Change
19 JOSEPH AMATO	19 to: _____
20 Subscribed and sworn to on the _____ day of	20 _____
21 _____, 20____ before me,	21 Reason for
22	22 change: _____
23 _____	23 SIGNATURE: _____ DATE: _____
24 Notary Public,	24 JOSEPH AMATO
25 In and for the State of _____	25

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1
2 DEPOSITION ERRATA SHEET
3 Page No. _____ Line No. _____ Change
4 to: _____
5 _____
6 Reason for
7 change: _____
8 Page No. _____ Line No. _____ Change
9 to: _____
10 _____
11 Reason for
12 change: _____
13 Page No. _____ Line No. _____ Change
14 to: _____
15 _____
16 Reason for
17 change: _____
18 Page No. _____ Line No. _____ Change
19 to: _____
20 _____
21 Reason for
22 change: _____
23 SIGNATURE: _____ DATE: _____
24 JOSEPH AMATO
25